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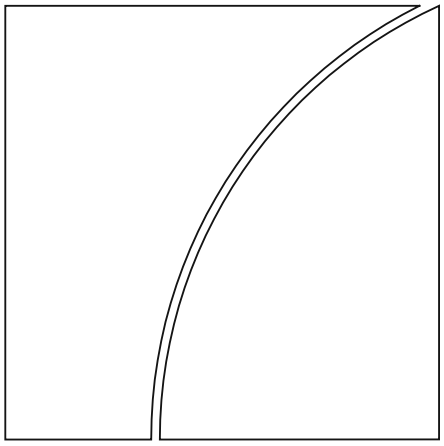

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What needs to be done to improve the efficiency of the resolution framework of the banking union

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Abstract

The resolution framework of the banking union is a significant achievement that has proved capable of managing idiosyncratic bank failures. However, certain features increase its complexity and undermine its efficiency compared with the frameworks of other major jurisdictions. These features include cumbersome decision-making procedures; detailed arrangements for coordination among EU/BU and national authorities; granular and complex regulation, including rules on MREL calibration; and a complicated interaction with insolvency regimes. Unnecessary complexity has costs for firms and authorities. This complexity does not result directly from shortcomings in the policy approaches pursued by authorities. Rather, it is mainly a consequence of singularities of the current legislative framework that affect not only the efficiency with which the single resolution mechanism (SRM) operates but also its ability to contribute to the objectives of the banking union. In other words, discussions about complexity, inefficiency and effectiveness are linked, and to achieve meaningful improvement the inefficiencies will need to be addressed by determined legislative action. This consideration is of direct relevance to the ongoing discussions about the scope for simplification of the European resolution framework.

Contents

What needs to be done to improve the efficiency of the resolution framework of the banking union[1]

1. Introduction

The European banking union (BU) was created in the aftermath of the Great Financial Crisis (GFC) that began in 2007 and the euro area crisis that began in 2010. The GFC revealed the fiscal, economic and social costs of a lack of effective tools for managing the failure of systemic banks in a way that maintains their critical functions and protects financial stability without exposing taxpayers to loss. At the international level, the G20 responded by developing a package of measures to address the problem of financial institutions considered "too big to fail", including the FSB Key Attributes of Effective Resolution Regimes for Financial Institutions (FSB Key Attributes).

The euro area crisis highlighted the risks that a destabilising feedback loop between sovereign and financial risks posed to the very continuation of the European monetary union. Breaking the loop required an institutional framework that would allow banks' risk to be denationalised, ie delink the risks associated with a bank's liabilities from its geographical location within the monetary union. The banking union was designed to achieve that objective. One of its essential components is a robust failure management regime for European banks. That implies common resolution tools that may be used to protect financial stability and maintain the critical functions of failing systemic banks without relying on external funding from domestic sources.

That is the main objective of the single resolution mechanism (SRM), which is one pillar of the banking union along with the single supervisory mechanism. The SRM, together with the Bank Recovery and Resolution Directive (BRRD), implements the FSB Key Attributes in a way that is consistent with the objectives of the banking union. In the decade that the SRM has been operating, resolution plans have been put in place for all significant banking institutions, the credibility and feasibility of those plans is tested through regular resolvability assessments, European banks have built up loss-absorbing capacity to support their resolution and the framework has proven capable of dealing with several bank failures. These include the 2017 resolution of Banco Popular Español through a writedown of all its share capital, a writedown and conversion of its capital instruments and the transfer of its newly issued shares to Banco Santander; and the 2022 resolution of Sberbank Europe through the transfer of locally systemic subsidiaries, coupled with the liquidation of the parent, which was deemed not to meet the public interest threshold for resolution.[2]

At the same time, experience has shown that the SRM has shortcomings that impede it from achieving its core objectives. For example, the design of the framework and its funding arrangements were factors that led in 2017 to the failure of two significant Italian banks – Banca Popolare di Vicenza and Veneto Banca – being managed through national insolvency measures that included the use of public funds, rather than being resolved under the SRM. Rigid arrangements for external funding in resolution

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[2] However, since the establishment of the SRM, significantly more problem banks have been handled through national procedures (including insolvency, voluntary industry support or state support) than through SRB resolution schemes.

and the lack of a European deposit insurance scheme impair the crisis management framework and prevent the full denationalisation of banks' risks within the banking union. Funding includes both liquidity, which is key to continuity of critical functions, and external mutualised financial support. By "external", we mean sources of funding for loss absorption and recapitalisation other than a bank's own balance sheet.

Such shortcomings and their impact on the effectiveness of the current resolution framework are widely recognised, at least at the technical level. That recognition informs several reform proposals[3] and the forthcoming European Union (EU) legislation aimed at improving the existing crisis management and deposit insurance framework (known as the CMDI).[4]

A parallel debate has recently emerged on how to increase the efficiency of the regulatory framework for banks, including the rules relating to bank failure management. The concept of efficiency is distinct from that of effectiveness. Efficiency refers to the ability of the framework to achieve its primary objective – to preserve financial stability – without unnecessary complexity, ambiguity and costs to authorities and firms. The banking industry and public officials have launched a reflection on ways to moderate the costs to industry of regulatory compliance without sacrificing the primary objectives of regulation. The terms "modernisation" and "simplification" have been used to characterise the objectives of that reflection. Ten years after the creation of the SRM, this debate provides an opportunity for authorities and policymakers to seek ways to improve the European resolution framework by simplifying and streamlining its provisions. However, as regards resolution, meaningful progress may require some far-reaching reforms.

This is because much of the complexity arises from institutional characteristics that are specific to the EU/BU framework. Importantly, those characteristics also underlie features of the resolution framework that limit its effectiveness, linking the institutional structure, complexity and effectiveness. For example, restrictions related to resolution funding from external sources arise from institutional features of the banking union. Those features lead in turn to detailed requirements relating to loss-absorbing capacity and creditor bail-in that are complex to apply and, in many instances, costly for banks and authorities. Accordingly, the drive towards an improved regulatory framework that supports the competitiveness of the European industry also implies a need to change, where possible, the institutional singularities of the BU framework that affect both the effectiveness and the efficiency of the SRM. Similarly, the discussion of how to "simplify" or "modernise" the BU resolution framework needs to consider the constraints imposed by the current institutional arrangements and to question how far they are "written in stone" or could be changed if there are sufficiently compelling arguments – based on effectiveness and efficiency – to do so.

This paper tries to shed some light on the debate. It reviews the design of the SRM, identifies the main sources of complexity, assesses the extent to which they are linked to the current BU institutional framework and discusses possible reform options. The paper is structured as follows. Section 2 describes the institutional singularities of the resolution framework that have implications for its efficiency. Section 3 compares the BU regime with that of two other jurisdictions with developed banking markets. Section 4 discusses actions that could improve the BU regime and Section 5 sums up.

[3] For example, revisions by the European Banking Authority (EBA) to technical standards relating to resolution planning (EBA (2025a,b)) and simplification measures proposed by the SRB (SRB (2025b)). The technical note on financial sector safety nets published for the most recent euro area Financial Sector Assessment Program also sets out recommendations for simplification of aspects of the SRM (IMF (2025)). In February 2026, the European Commission launched a targeted consultation on the competitiveness of the EU banking sector that seeks the views of stakeholders on, among other things, the complexity and effectiveness of the regulatory framework, including that for resolution, and measures to perfect the banking union (EC (2026)).

[4] The CMDI amends four pieces of legislation within the EU crisis management framework, including the BRRD, the Single Resolution Mechanism Regulation (SRMR) and the Deposit Guarantee Scheme Directive. Relevant anticipated amendments are noted in this paper, although they are not expected to come into force until two years after the legislation is adopted.

2. The specificities of the European resolution framework

For the purposes of this paper, a resolution framework means the combination of authorities' tools and procedures for the orderly management of failing banks and the requirements addressed to banks to make their resolution credible and feasible. In Europe, resolution and general insolvency are treated as conceptually distinct and are subject to different legislative regimes, even though a resolution may include liquidation of parts of a failed bank.

Many of the singularities of the resolution framework are linked to the specificities of the European institutional framework. The European Union is a group of sovereign countries that have chosen to relinquish – fully or partially – sovereignty in specific areas by adopting common rules and transferring certain executive powers to European institutions. In some domains that are relevant for resolution, such as corporate insolvency and budgetary policies, that transfer of sovereignty is limited. Thus, the European resolution framework coexists with national insolvency regimes.[5] It also operates without a common Treasury or a common deposit insurance scheme.

An important and idiosyncratic feature relates to how powers are exercised. The banking union was created without an explicit basis in the EU Treaty. While the Treaty permits "specific tasks [...] relating to the prudential supervision of credit institutions" to be conferred on the European Central Bank (ECB), it is silent on a possible allocation of functions related to bank failure management to new or existing European bodies. Although European legislation was able to create the Single Resolution Board (SRB) as an agency for this purpose, the absence of a Treaty provision limits the legal powers it can exercise. Under the Meroni doctrine on the limitations of delegation,[6] agencies' discretionary executive actions that are not precisely delineated need to be endorsed by the competent national or European institutions. There is a debate about the evolving scope of this doctrine and the constraints that it imposes.

Another singularity of the banking union is the limitation on access to mutualised external funding for resolution. Some of the same political reasons why the European Union does not have a single European Treasury also lie behind the aversion to full risk-sharing of the costs of bank failures across member states. That reluctance manifests in restrictions on access to the Single Resolution Fund (SRF) of the banking union and its limited firepower, and in the failure to agree a European Deposit Insurance Scheme.

The limited mutualisation of the external support for bank failure management is a significant obstacle to the denationalisation of banking risks that inspires the BU project. To mitigate the impact of this obstacle, the framework envisages a resolution funding regime that aims to reduce the need for external support from industry-contributed funds and minimise resort to government funding. Government stabilisation tools are not referred to in the Single Resolution Mechanism Regulation (SRMR).[7] While the EU BRRD[8] allows (but does not require) member states to implement such tools in their national

5 A distinction between resolution and insolvency is not unique. For example, it also exists in Hong Kong SAR and the United Kingdom. A number of jurisdictions reserve special resolution powers for a subset of systemic institutions (powers which may or may not be included in the same legislative framework as general insolvency). However, the European Union is unique in the coexistence of EU and national laws, both of which potentially apply to bank failures.

6 The doctrine derives its name from the 1958 judgment of the Court of Justice of the European Union in *Meroni v High Authority* (EU:C:1958:7). It has been refined in relation to decisions by the SRB in subsequent cases, most recently in litigation following the 2017 resolution of Banco Popular Español (*Fundación Tatiana Pérez de Guzmán el Bueno and SFL v SRB* (EU:T:2022:311)) and the decision not to resolve ABLV Bank (*ABLV Bank AS v SRB and ECB* (EU:C:2025:953)).

7 Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014.

8 Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014, as subsequently amended.

framework, those national tools cannot be specified in a resolution scheme adopted by the SRB.[9] Moreover, use of the SRF in the resolution of a failed bank requires the prior writedown or conversion of at least 8% of the bank's total liabilities and own funds, and the SRF funds available in a specific case are capped at 5% of the value of those liabilities and own funds.[10] These features (among others) explain the wide scope of the loss absorbency requirements – the minimum requirement for own funds and eligible liabilities (MREL) imposed on all banks that are expected to be subject to resolution and the calibration of those requirements.

These institutional singularities result in three features that increase the complexity of the BU resolution framework: the involvement of multiple authorities in resolution, a complex coexistence of European and national rules, and stringent and detailed obligations relating to resolution funding.

The involvement of multiple authorities

The first distinctive feature of the BU framework is the number of players involved in resolution preparation and decision-making. This inevitably results in complex procedures. Two examples are the resolution planning process and the adoption of a resolution scheme.

The resolution planning process for significant BU institutions is elaborate, reflecting the complexity of the institutional architecture. The SRB operates a 12-month resolution planning cycle, as required under the legal framework. Within the annual cycle for each bank, there are four phases. The first is analysis and drafting, during which the Internal Resolution Team (IRT)[11] updates existing plans, determines the institution's MREL and conducts the resolvability assessment. This relies on information provided by supervisory authorities and by banks directly. The second phase is an internal SRB review and consultation with the ECB. This is followed by approval of the resolution plan, MREL determination and resolvability assessment by the SRB. However, for banks with a resolution college,[12] the process also requires a joint decision within the college, which must be taken within four months, before approval by the SRB. The final phase involves communicating the key elements of the plan and the MREL decision to the bank and to the national resolution authorities (NRAs) that will implement that decision.

The adoption of a resolution scheme for a failing bank will typically take place in the context of an evolving crisis in which rapid intervention is needed to stabilise the situation. The procedural role of the European Commission and, where relevant, the European Council stems in part from the legal restrictions on the extent to which discretion can be delegated to agencies within the EU framework. As noted, the SRB does not have the power to produce discretionary binding legal effects for individuals. The procedural requirements were introduced by the Council during the negotiation of the SRMR[13] to comply with the Meroni doctrine on the scope of delegation of discretionary powers to agencies within the

9 Article 18(6)(b) of the SRMR specifies that a resolution scheme must "determine the application of the resolution tools to the institution under resolution referred to in Article 22(2)", ie bail-in, sale of business, bridge bank and asset separation. Similarly, Article 8(5) limits the resolution tools and resolution powers that should be included in a resolution plan developed by the SRB to those referred to in the SRMR.

10 See Restoy et al (2020) for further analysis of restrictions on access to sources of resolution funding under the EU framework. It should be noted that, for small and medium-sized banks, the CMDI is expected to allow a portion of that required 8% writedown or conversion to be met by funds contributed by a deposit guarantee scheme.

11 IRTs consist of staff from the SRB and the national resolution authorities (NRAs) relevant to the bank in question.

12 Resolution colleges are required for banks headquartered in the banking union with one or more subsidiaries or significant branches in one or more EU countries outside the banking union and banks headquartered in an EU country outside the banking union with one or more subsidiaries or significant branches in a BU member state.

13 Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014.

European Union. By including the possible involvement of the Council, the requirements also recognise the impact of resolution decisions on member states' financial stability and, potentially, fiscal sovereignty.[14]

That restriction adds a further procedural step to adoption in that the resolution scheme must be endorsed by the European Commission to have effect. Accordingly, once a scheme has been adopted by the SRB in its "extended Executive Session", it must be transmitted immediately to the Commission, which must either endorse it or object to any of its discretionary elements within 24 hours. Furthermore, if the Commission believes that the public interest threshold condition for resolution is not met, or if it wishes to change the amount to be provided by the SRF to execute the scheme, it may propose to the Council (in its ECOFIN format comprising finance ministers of EU member states) that it object to the scheme. The Council has 12 hours to respond. Should the Commission or the Council object, the SRB has eight hours to amend the scheme. Moreover, any use of SRF funds or public funds must be assessed by the Commission for compliance with EU state aid rules, and the resolution scheme cannot be adopted until a decision has been made.[15] These deadlines are both exactingly short for the coordination that needs to be undertaken and potentially too long in a fast-moving crisis.[16]

The institutional separation of supervision and resolution within the banking union also multiplies the number of institutions involved in specific processes. This is seen, for example, in the provisions governing the determination that a bank within the SRB's remit meets the conditions for resolution. That determination has three elements which involve both the ECB and SRB.

The first element is the assessment that a bank is "failing or likely to fail". The primary role in the assessment falls to the ECB in its capacity as supervisor, in consultation with the SRB. The SRB may make the assessment, having informed the ECB of its intention, only if the ECB fails to do so within three days.[17] The second element is the determination that there are no alternative private sector measures that could restore the bank to viability within a reasonable time frame. The SRB must make that determination in close cooperation with the ECB, as befits an assessment that presupposes a detailed understanding of a bank's financial condition and the plausibility of its options. However, the ECB may also inform the SRB that it considers this condition met. The SRB has sole responsibility for the third element, the public interest assessment (PIA).

Effective cooperative arrangements need to be in place to support coordination and information-sharing. That is the case irrespective of whether supervisory and resolution functions are co-located within the same institution or separated in different bodies. While institutional separation may help manage certain possible conflicts of interest, challenges of coordination between the supervisory and resolution authority are greater in this case.[18] Under the SRMR, the SRB may only request that banks provide information it needs to perform its tasks if it cannot obtain that information from the ECB or

[14] See Recital 24 of the SRMR.

[15] See Article 18 of the SRMR. The CMDI will streamline this assessment by requiring the Commission to adopt its decision on compatibility with state aid rules at the latest when it endorses (or objects to) the resolution scheme or on the expiry of the 24-hour period within which the Commission must endorse the scheme under Article 18(7).

[16] This is not to imply that the institutions involved cannot act rapidly. In the resolution of Banco Popular Español, the SRB transmitted the resolution scheme to the Commission for endorsement at 5.13 am, and just over one hour later, at 6.30 am, the Commission adopted a formal decision endorsing it. This was possible because the Commission had been an observer at the SRB Executive Session and its officials had been involved in the preparation of the scheme. Effective cooperation can clearly help to expedite the process, but the procedure is rigid and the risk of roadblocks remains.

[17] See Article 18(1), paragraph 2 of the SRMR. Should the SRB carry out the assessment, the ECB must provide the SRB with any information it requests for that purpose. In all cases to date, the ECB has made the necessary assessment. However, this provision may be designed as a protective measure against excessive supervisory forbearance.

[18] See Baudino et al (2021) for further analysis of this topic.

NRAs.[19] This requires extensive information-sharing arrangements between the ECB and SRB to avoid any "unnecessary increase" in reporting requirements for banks and any duplication in data collected by the two authorities.[20]

The coexistence of BU and national regimes

The second distinctive feature is the coexistence of BU and national frameworks. The SRM functions in conjunction with national resolution frameworks implementing the BRRD. It also overlays unharmonised national insolvency regimes. Moreover, only a subset of banks established within the banking union fall within the remit of the SRB.

Responsibility for resolution planning and related activities, such as setting MREL, is divided between the SRB and NRAs, depending on the nature of the institution in question. Entities and groups that are directly supervised by the ECB for reasons of their significance based on factors such as size, economic importance and cross-border activities, and other cross-border groups, are within the remit of the SRB. NRAs are nevertheless involved in resolution planning for those banks through their participation in IRTs alongside SRB staff. NRAs are responsible for less significant institutions (LSIs), unless they have cross-border presence within the banking union, in which case they fall within the SRB's remit.[21] However, the SRB oversees the activities of NRAs in relation to the LSIs for which they are responsible in order to help ensure a consistent approach.[22]

There is a further division at the point of failure. The use of resolution powers requires, among other conditions, a positive PIA. Under the framework as it currently stands, this means that the use of resolution measures is necessary to achieve one or more of the resolution objectives and winding up under normal insolvency proceedings would not meet those resolution objectives to the same extent.[23] The PIA requires a comparison between the expected outcomes of resolution and national insolvency proceedings. Since core elements insolvency regimes such as the grounds for insolvency, tools available, funding options and the time frame for the procedure are not harmonised, the outcome of that assessment could depend on national variables.[24] If the PIA is negative, the bank will be wound up under the applicable insolvency framework, a process that is entirely subject to member state jurisdiction, and the failure management options will vary depending on the national regime.

19 See Article 34(1) of the SRMR. A memorandum of understanding (ECB and SRB (2022)) contains detailed provisions for communication; information exchange; and cooperation in resolution planning, early intervention and the execution of a resolution.

20 This objective is stated in Recital 8 of ECB and SRB (2022).

21 Numerically, LSIs represent the majority of banks within the banking union. As of 1 January 2024, there were 1,915 LSIs at the highest level of consolidation, compared with 114 institutions within the remit of the SRB (of which 110 are significant institutions directly supervised by the SRB and four are other cross-border groups). However, the LSI sector accounts for 14% of total banking assets within the banking union. Of the LSIs, only a small proportion – some 70 – are earmarked for resolution. The rest are expected to be merged or wound up if they fail (SRB (2024b)). Many LSIs included in this overall figure are part of institutional protection schemes (IPS), which affects the likely failure management options.

22 The policies developed by the SRB for banks within its remit apply to LSIs as relevant and proportionate, and before taking resolution actions in respect of LSIs, NRAs give the SRB the opportunity to express its views on the proposed measures.

23 The CMDI is expected to amend the PIA so that a bank that meets the other conditions for resolution will only be subject to a national insolvency procedure if none of the resolution objectives would be jeopardised or, if at least one of those objectives would be at risk, winding up would achieve the objectives more effectively than would resolution. The intention is to broaden the use of resolution.

24 See Baudino et al (2018) and Buckingham et al (2019) for an overview of the diversity of insolvency frameworks in EU member states.

National law remains relevant in the event of a positive PIA for a bank within the SRB's remit. A resolution scheme adopted by the SRB must be implemented by the relevant NRA(s), using statutory powers under the national resolution framework(s). Joint resolution planning and work in IRTs can help ensure that NRAs are able to execute a resolution scheme, but this adds a further dimension of legal and operational complexity.

National law is also relevant in the application of the "no creditor worse off" (NCWO) safeguard. This safeguard, derived from international standards,[25] requires a valuation of the losses that creditors would have incurred had the bank been liquidated, compared with those they actually incurred in the resolution. Under any framework, the assessment is complicated by variables such as balance sheet instability in the run-up to failure, the destruction of value in liquidation and the impact of any deviation from the creditor hierarchy in resolution. Such complexity exists in any regime that includes a NCWO safeguard. However, the marked heterogeneity of national insolvency regimes further complicates the assessment and causes additional litigation risk.

Detailed resolution planning obligations

The third distinctive feature of the BU framework is the elaborate nature of the resolution planning process and the detailed nature of related requirements, particularly those for MREL. Internal financial resources to support resolution are especially important if access to external funds to support resolution is restricted.[26] This is the currently case in the EU/BU, where use of the SRF requires the prior bail-in of at least 8% of the total liabilities and own funds of the bank in resolution, the SRF funds available are capped at 5% of the value of those liabilities and own funds, and funding from the deposit insurer is limited. The CMDI package makes some helpful modifications – for example, by materially increasing deposit insurer funding for transfer strategies and allowing, in specific circumstances, that funding to help meet the 8% loss absorption requirement where a transfer strategy is used. Nevertheless, the conditions for SRF use will remain restricted.[27]

The SRB sets MREL for all banks within its remit as part of the annual planning process. This is a firm-specific exercise, carried out in accordance with a lengthy statutory methodology[28] that is more detailed and complex than those in other jurisdictions that have adopted requirements for resolution-related loss absorbency.[29] This approach reflects a desire to harmonise MREL-setting across the banking union. It is also shaped by the limited availability of external funding for resolution and the conditions for accessing the SRF.[30] MREL is complex to calibrate, and the methodology requires a

[25] See KA 5(2) of the FSB Key Attributes, which provides that creditors affected by resolution should have a right to compensation if they do not receive at least what they would have received in a liquidation of the firm under the applicable insolvency regime.

[26] International standards for resolution-related loss-absorbing capacity – the FSB standard for total loss-absorbing capacity (TLAC) – only apply to global systemically important banks (G-SIBs).

[27] The Commission's targeted consultation acknowledges that, while necessary to address moral hazard, the 8% loss absorption requirement "creates rigidity and may not be suited to all circumstances". It seeks the views of stakeholders on whether the rules governing the use of resolution funds to support a resolution action are proportionate and provide sufficient flexibility for authorities to manage bank failures adequately (EC (2026)).

[28] See Articles 45c–g of the BRRD.

[29] See Baudino et al (2025) for an analysis of the frameworks for resolution-related loss-absorbing capacity for banks other than G-SIBs in Australia, Canada, the European banking union, Hong Kong, South Africa and the United Kingdom. The European Commission has acknowledged that, while inspired by TLAC, the MREL framework "has developed over time into a particularly complex set of rules" that may have impacts on other parts of the framework (EC (2026)).

[30] For example. the framework provides that, for the largest (Pillar 1) banks, subordinated MREL resources must be equal to at least 8% of their total liabilities and own funds. The purpose of this is to ensure that the conditions for access to the SRF can be met, although resolution authorities may reduce or increase the 8% subordination target on a case by case basis.

significant element of judgment. Nevertheless, the detailed statutory provision leaves the SRB limited scope for flexibility in its approach to setting MREL for individual firms.

MREL is calculated as both a risk-based ratio and a leverage ratio and consists of two components: a loss absorption amount (LAA), based on a bank's required regulatory capital, and a recapitalisation amount (RCA), representing the additional loss-absorbing capacity considered necessary to recapitalise the bank in resolution to sufficient levels for it to continue performing its licensed activities.[31] The RCA is subject to possible upward and downward adjustments that reflect the resolution strategy, the features and situation of the bank and its progress towards resolvability. Upward adjustments include a "market confidence charge" if needed to ensure that the bank will be sufficiently capitalised following resolution to continue providing critical functions and to attract market funding. The SRB may raise the leverage-based subordinated MREL amount to up to 8% of total liabilities and own funds if it considers that necessary to ensure that a bank has sufficient loss-absorbing capacity to meet the conditions for use of the SRF. Other upward adjustments are possible where needed to meet the statutory resolution objectives. A bank's MREL may be reduced within specified parameters if the SRB is satisfied with its progress towards resolvability. Other possible downward adjustments relate to the resolution strategy and balance sheet size. For example, a reduction may be made for banks with a resolution strategy involving a partial transfer to reflect the smaller balance sheet following resolution. The downward adjustment is made by applying a scaling factor of 15–25% to the total assets and calculating the RCA on that basis.[32]

A further layer of complexity is added by the way in which subordination requirements apply. The statutory rule differentiates between "Pillar 1 banks"[33] and other banks within the scope of the resolution framework. Pillar 1 banks must meet the non-adjustable element of their MREL with instruments that are subordinated to excluded liabilities.[34] For other banks, the amount of MREL that must be subordinated is determined by the resolution authority, based on a bank-specific assessment of the possible NCWO risk that is conducted as part of resolution planning. This is a complex exercise that requires projections of the size and distribution of the losses for different classes of creditors under different resolution strategies and failure scenarios.

Although the framework allows levels to be adjusted downwards to reflect individual features, the requirements are stringent compared with resolution-related loss absorbency requirements in other jurisdictions.[35] In addition, despite the widespread reliance worldwide on transfer strategies as a core resolution tool, a minority of the BU banks for which the SRB is responsible have a transfer-based resolution strategy that would allow them to benefit from an MREL reduction, and such a reduction has not yet been made in all cases.

31 The LAA consists of the combined supervisory Pillar 1 and Pillar 2 capital requirements and the leverage ratio requirement, and both measures must be met in parallel. The starting point for the RCA is the same as that for the LAA, but it may be adjusted upwards or downwards within parameters set out in the framework.

32 Within that 15–25% range, the SRB decides the factor to be used based on the size of the bank in question, the proportion of impaired assets on its balance sheet, the nature of its depositor base, levels of uncertainty in valuation that may affect its marketability and its progress towards resolvability. See Section of 2.4.2 of SRB (2024a).

33 Pillar 1 banks comprise resolution entities and material subsidiaries of global systemically important institutions (G-SIIs), banks with total assets above EUR 100 billion and other banks assessed by their NRA to pose a systemic risk in the event of failure.

34 In addition, the subordinated MREL resources must be equal to at least 8% of the Pillar 1 bank's total liabilities and own funds. The purpose of this is to ensure that the conditions for access to the SRF can be met. However, the resolution authority may reduce or increase that 8% subordination target on a case by case basis. See Article 45b(4) of the BRRD and Article 12c(4) of the SRMR.

35 See Baudino et al (2025). This is partly balanced by the wider range of liabilities that may be used to meet MREL, since full subordination requirements apply only to a subset of banks.

3. Assessing the efficiency of the BU resolution framework

The previous section described distinctive features of the BU resolution framework that affect its efficiency. In this section, we dig deeper by assessing the efficiency of the BU framework against six core qualities that a framework should have to be efficient. The qualities selected are not exhaustive but are intended to capture core features that enable a framework to be effective while avoiding undue complexity and the burdens that complexity entails. In that assessment, we also draw comparisons with relevant features of the UK and US resolution frameworks. The first is chosen because of the structural similarity of the UK resolution framework to that of the banking union. The second is chosen because of the differences in structure and institutional arrangements compared with the European framework. Descriptions of the relevant features of each regime are set out in the Annex.

1. Clarity in scope

The scope of the framework is sufficiently well defined, with clarity about how resolution-related requirements apply to individual banks.

This feature means that the banks that are expected to be subject to resolution if they fail are identified based on clear criteria that can be verified in advance. Ambiguity in scope may lead either to gaps in planning and inadequate preparation for resolution or to disproportionate and costly requirements for banks that would be subject to an insolvency procedure in the event of failure.

All banks established in the banking union are potentially within the scope of the resolution framework and subject to resolution planning. However, although resolution planning is required for all banks, only the larger, more systemic institutions are expected to be resolved. For the vast majority, the preferred failure management strategy is an insolvency procedure under the applicable national law.[36]

To this extent, the BU framework has a clear scope. The breadth of resolution planning ensures that the appropriate strategy is considered for all banks, and the application of resolvability requirements, including MREL, is determined through that process. Nevertheless, the use of resolution powers depends on the PIA that is made at the point of failure. While the outcome of that is entirely predictable in the case of the largest banks, there may be some ambiguity in other cases since the assessment of the likely impact of a bank's failure depends in part on its significance to the financial system of the member state or states where it operates and on the prevailing circumstances. While the SRB oversees the activities of NRAs to help ensure a consistent approach, that assessment depends on jurisdiction-specific variables.

Comparison with other jurisdictions

There is scope for greater transparency in the criteria that determine how a bank is expected to be treated. For example, the UK framework has a similar scope of application. However, the Bank of England (BoE) has published indicative thresholds that guide its assessment of the appropriate preferred resolution strategy (liquidation, transfer or bail-in) for an individual bank. Those thresholds are quantitative (total assets, transactional accounts), supplemented by institution-specific qualitative factors that the BoE also takes into account.[37]

[36] For example, of the 1,915 LSIs within the banking union as of 1 January 2024, only a small proportion – some 70 – are earmarked for resolution. The rest are expected to be merged or wound up and almost all of those are subject to "simplified obligations", meaning that they are subject to lower requirements relating to reporting and resolution planning. That body of banks has remained largely stable over time. See SRB (2024b).

[37] BoE (2025) sets out updated thresholds, applicable from the beginning of 2026.

The US framework for managing bank failures operates differently. For insured depository institutions (IDIs), there is a single statutory framework under which the Federal Deposit Insurance Corporation (FDIC) is appointed as receiver to resolve a failing IDI, either through a purchase and assumption (P&A) transaction or through liquidation. The strategy is determined by a least cost test that requires the FDIC to pursue the failure management option that is least costly to the deposit insurance fund (DIF). Resolution-related planning requirements apply under tailoring rules to a subset of IDIs, identified using quantitative criteria to capture size and complexity.

Holding companies of banking groups (and other non-bank financial institutions) that have been designated as systemically important would be wound up under the applicable chapter of the US Bankruptcy Code or, where necessary to protect financial stability, resolved by the FDIC using its Orderly Liquidation Authority (OLA) under Title II of the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act). Arguably, there is ambiguity about the regime that will apply to a failing systemic non-bank institution since use of the OLA requires a systemic risk determination. The procedure for that requires a recommendation, based on eight statutory criteria, by the Federal Reserve Board (FRB) and the institution's regulator to the Secretary of the US Treasury and consultation with the US president, known informally as the "three keys" process. Designated non-bank institutions are subject to planning for orderly wind-down under the Bankruptcy Code and Title II resolution.

2. Proportionality

The framework incorporates proportionality in the application of resolution-related obligations.

This feature means that requirements relating to resolution planning, measures to support resolvability (including loss-absorbing capacity) and the capabilities that banks are required to demonstrate should be adjusted to reflect a bank's size, complexity, systemicity, business model and resolution strategy.

Resolution planning requirements in the banking union are subject to proportionality. The framework provides for simplified obligations for smaller institutions and contemplates that non-systemic banks will be subject to insolvency procedures if they fail. Resolvability requirements are tailored to a bank's resolution strategy and, for banks earmarked for insolvency, aim principally at ensuring that insured deposits can be identified, transferred or paid out rapidly.

Nevertheless, resolution plans for banks with a strategy based on transfer or bail-in have become increasingly detailed. This is largely unavoidable: resolution is a complex transaction and, to be credible, planning must engage with operational detail. However, the length and detail also increase the burden of updating plans and the information requirements for banks. While much of that detail is necessary, there is scope for rationalisation and simplification to remove duplication and to ensure a focus on the elements that are essential for the bank in question.[38]

However, efforts to apply proportionality may also increase complexity. The MREL framework is arguably an example of an area where efforts to tailor requirements to the individual characteristics of a bank increase complexity beyond what is efficient. As noted above, bank-specific MREL calibration involves a range of upward and downward adjustments that reflect the bank's features and situation, resolution strategy and progress towards resolvability. Those levers aim to increase precision in the MREL but result

[38] This is recognised: see SRB (2025c). The SRB has adopted a simplified resolution planning template that was used for the first time in the 2025 resolution planning cycle, and has called for legislative reviews to consider reducing the required frequency of updates to allow greater focus on risks and testing. Further work is ongoing in the EBA review of technical standards on information required for resolution planning and the contents of resolution plans. See Section 4.

in a judgment-based methodology that is significantly more complex than that adopted in other jurisdictions.

Comparison with other jurisdictions

Both the UK and US frameworks provide, in different ways, useful comparisons as regards proportionality and tailoring.

Although the UK framework is based on an implementation of the BRRD, it incorporates greater proportionality than that of the banking union in several key respects. For example, resolution planning requires submissions from firms on a two-year cycle, compared with the annual cycle that the SRB is required by statute to carry out. Moreover, the UK framework for setting MREL is materially simpler than that in the banking union. The BoE is responsible for setting bank-specific MREL within specified statutory parameters. Its published approach indicates largely standardised requirements based on a bank's preferred resolution strategy. Broadly speaking, banks with a bail-in strategy must maintain the higher of two times the sum of their Pillar 1 and Pillar 2A requirements and two times the applicable leverage ratio requirement.[39] This can be reduced for banks with a transfer strategy.

In the most recent Statement of Policy on its approach to setting MREL, the BoE indicated that, from the beginning of 2026, it does not expect to set MREL above minimum capital requirements for banks with a transfer strategy.[40] This is possible, in part, because of the establishment in 2025 of a new statutory mechanism for funding to support small bank resolution using transfer powers.[41] This alleviates MREL requirements for banks with a transfer strategy, which are generally mid-sized and less complex than those earmarked for bail-in, although other resolvability-related measures continue to apply. While the CMDI also aims to increase the use of deposit guarantee scheme (DGS) funding in resolution transfers, the conditions for use of DGS funds are more restrictive than under the UK mechanism, the amounts are capped and such funding is not a factor in MREL calibration.

Resolution planning requirements in the United States are tailored to the size and systemic nature of the firm. A subset of IDIs is subject to requirements relating to resolution under the Federal Deposit Insurance Act (FDI Act). These requirements are imposed under rules adopted by the FDIC, and their scope of application has been modified several times. The currently applicable rule distinguishes between IDIs with assets over USD 100 billion and those with assets between USD 50 and 100 billion and applies different requirements relating to the frequency with which firms must submit resolution plans (with most covered firms being required to file triennially) and the required contents of informational filings (with reduced contents for the second group of IDIs). Most recently, in 2025 the FDIC waived certain requirements for the upcoming submission cycle through Frequently Asked Questions (FAQs).[42]

The largest bank holding companies (BHCs) are required under Title I of the Dodd-Frank Act to periodically submit resolution plans ("living wills") to the FDIC and the FRB. The plans must provide for their rapid and orderly resolution under the US Bankruptcy Code and demonstrate how their failure would avoid serious adverse effects on financial stability in the United States. Resolution planning requirements apply in accordance with the four tailoring categories adopted by the FRB in 2019. The frequency of filing and the contents requirements for Title I resolution plans vary across those categories. For example, G-SIBs

39 G-SIBs are subject to an enhanced requirement that is consistent with the FSB TLAC standard.

40 See BoE (2025).

41 The Bank Resolution (Recapitalisation) Act 2025. Funds would be provided by the Financial Services Compensation Scheme (FSCS) and subsequently recovered from the industry through levies. The funds available under this mechanism are not capped by reference to the value of insured deposits or costs to the FSCS of payout. See the Annex for further details.

42 See FDIC (2025).

are required to submit Title I plans every two years while other covered firms are subject to triennial filing. Within those cycles, the requirements alternate between full and targeted plans.

However, despite tailoring efforts, some requirements overlap. BHCs that are subject to Title I resolution planning are likely to have subsidiaries that are also within the scope of the IDI planning requirement. The latter is conceived as a "backstop" for circumstances in which the group is not resolved under Title I. Whereas Title I plans focus on financial stability, mitigating systemic risk and the resolution of the group as a whole, the FDIC planning rule aims to support the FDIC's ability to resolve IDIs using its traditional tools, such as P&A, and to deliver its objectives, including continuity of access to insured deposits and minimising losses to the DIF. Nevertheless, the overlap has been subject to criticism by industry as unnecessary duplication.

3. Smooth interaction between resolution and insolvency

Resolution and insolvency frameworks are appropriately aligned and the framework provides for effective interaction between the regimes.

This feature means that where resolution and insolvency regimes are separate, as they are in the European Union, they are as aligned as possible. This is important to avoid points of friction, provide legal certainty, avoid "limbo situations" in which a bank that is non-viable for the purposes of resolution cannot yet be put into an insolvency procedure, reduce litigation risks and facilitate the application of the NCWO safeguard in the resolution framework. While the tools under a separate insolvency framework may differ from those for resolution, aspects such as the applicable hierarchy of liabilities and conditions or grounds for entry into the framework should be similar. Moreover, where the resolution and insolvency authorities are not the same, the framework should facilitate effective coordination between them.

This feature remains problematic in the BU framework. The SRM functions on top of a patchwork of national insolvency regimes (which may be either administrative or judicial) with different grounds for putting a bank into an insolvency procedure, different tools and incompletely harmonised creditor hierarchies.[43] Where a failing bank does not meet the public interest threshold for entry into resolution, it should be subject to an insolvency procedure under the applicable national framework.

This structure has implications for the efficiency of the resolution framework. For example, the insolvency tools available under national regimes vary: some have resolution-like options, such as the ability to carry out transfers of business, while others do not. Funding arrangements for insolvency also vary. These differences affect (and make more complex) the PIA, which compares the outcomes in resolution against those in insolvency. Differences in grounds for insolvency and the "failing or likely to fail" condition for entry into resolution have led in the past to a limbo situation in which a failing bank that does not meet the public interest test for resolution cannot be put into insolvency because it does not yet meet the statutory grounds under the national framework.[44] Differences in national creditor hierarchies complicate the application of the NCWO safeguard, which requires an estimate of losses creditors would have sustained in a liquidation under the applicable insolvency framework. The nature of a national insolvency framework also has implications for effective coordination, since coordination between resolution and insolvency authorities is materially more complex where the latter are judicial.

[43] See Baudino et al (2018) and Buckingham et al (2019) for an overview of the diversity of insolvency frameworks in EU member states.

[44] This risk is addressed in the CMDI by requiring member states to ensure that in such circumstances the relevant national authority has the power to initiate winding-up proceedings immediately.

Comparison with other jurisdictions

This is a dimension in which the EU/BU is sui generis. The features referred to stem from its legal and institutional nature and are not present either at all or to the same extent in other jurisdictions. In the United States, there is a single insolvency regime for IDIs and the interface between the Bankruptcy Code and Title II resolution for non-bank financial institutions is clearly articulated. The United Kingdom, like the European Union, has separate resolution and insolvency frameworks and insolvency is a court-led procedure. However, the modified bank insolvency procedures are designed to prioritise deposit protection. The liquidator has a statutory depositor protection objective, and the UK financial authorities are represented on a liquidation committee that oversees how that objective is achieved.[45] This arrangement helps achieve a smooth interface between resolution and insolvency frameworks.

4. Effective coordination between supervision and resolution

The institutional framework requires and facilitates coordination between supervisory and resolution functions.

This feature means that supervisory and resolution authorities coordinate closely to ensure a smooth transition from going to gone concern at the appropriate time. The institutional framework should also facilitate frictionless information exchange between those authorities and avoid duplication of oversight actions and data requests to banks.

As noted, the institutional separation of supervision and resolution in the banking union creates the need for detailed arrangements for information-sharing and cooperation to support effective coordination. Those arrangements are underpinned by a memorandum of understanding (MoU) between the ECB and SRB.[46] The length and detail of that MoU reflect the breadth and complexity of the coordination required. A further MoU, signed in 2023, governs sharing by the ECB of confidential statistical data collected by the Eurosystem, replacing the previous ad hoc exchange.[47] Such statistical data support key tasks for the SRB in resolution execution, such as valuation and the PIA.

The arrangements appear to function adequately, and there is no suggestion that shortcomings in coordination undermine the ability of the SRB to perform its functions. However, there is scope to improve their efficiency. Reflecting the relative youth of the BU resolution framework and the continuing evolution of resolution planning, arrangements for cooperation and information-sharing are to some extent a work in progress. For example, the CMDI is expected to reinforce the existing arrangements with statutory provision, and the European Banking Authority (EBA) is undertaking work to identify and remove duplication in the information required from banks.

45 Under the UK Bank Insolvency Procedure, the liquidator has two objectives. Objective 1, which is not an objective of the ordinary business insolvency regime, is to "work with the deposit insurer to ensure that, as soon as reasonably practicable, the accounts of protected depositors are transferred to another bank or that the insurer pays out the protected deposits". Objective 2, which is the sole objective of the ordinary business insolvency regime, is to wind up the failed bank to achieve the best result for creditors as a whole. Objective 1 takes precedence over Objective 2. The liquidation committee that oversees that objective comprises persons nominated by the BoE, the Prudential Regulation Authority (PRA), the Financial Conduct Authority and the FSCS.

46 See ECB and SRB (2022). The MoU was first agreed in 2018 and amended in 2022 to draw on lessons learned, make updates in the light of amendments to the capital requirements framework and formalise practices that had developed.

47 See ECB and SRB (2023).

Comparison with other jurisdictions

Comparison of the cooperation between supervisory and resolution functions in the banking union with that in other jurisdictions is of limited practical value since each is shaped by the jurisdiction's specific institutional arrangements. It is worth recalling, however, that coordination is facilitated where the supervisory and resolution functions are co-located in the same institution. This is the case in the United Kingdom, where the BoE is both resolution authority and the prudential regulator and supervisor. In addition to facilitating information-sharing, this arrangement helps ensure that supervision and resolution are as aligned as possible.[48] The US institutional arrangements are closer to those of the banking union in that, for many banks, responsibilities for supervision and resolution are divided between different authorities. The FDIC is the primary supervisor only for state-chartered banks that are not part of the Federal Reserve System and supervised by the FRB. However, it has backup supervisory authority for all IDIs, in support of its responsibilities as resolution authority and deposit insurer. Like the ECB and SRB, the FDIC, the FRB and the Office of the Comptroller of the Currency have enhanced cooperation arrangements in place and a range of formal and informal mechanisms for information-sharing and coordination.

5. Appropriate combination of rules and discretion

The framework combines sufficient legal certainty with appropriate discretion and flexibility.

This feature means that the framework's requirements and procedures are clear enough to minimise legal risks. This is important given the sensitivity of resolution actions and the high likelihood of litigation. At the same time, the framework should include an appropriate level of discretion since excessively rigid and codified resolution-related obligations may increase compliance costs and reduce the flexibility that authorities need to manage bank failures effectively.

Aspects of the EU resolution framework, such as how resolution tools are used, funding arrangements and MREL calibration, are specified in considerable detail by the BRRD and SRMR. This provides certainty about the application of the framework but also reduces flexibility for the SRB. However, this is in large part a consequence of the legal structure of the European Union, including the limitations on delegated powers. The detailed statutory provision also hardwires political agreement on sensitive issues: MREL, for example, is designed as a transparent and relatively predictable mechanism for burden-sharing that reduces reliance on mutualised funding sources. However, the effect of hardwiring is that changes to the framework require a potentially lengthy legislative (and political) process.

Comparison with other jurisdictions

Given the specificities of the EU/BU, comparison with other jurisdictions is only relevant up to a point. Both the UK and US frameworks make extensive use of secondary legislation and delegated rule-making powers that confer flexibility and scope for tailoring and responsiveness. For example, the UK requirement for MREL is a legacy of the EU framework, but the relevant legislative provisions are framed as a requirement that the BoE exercise powers relating to resolvability to require firms to maintain MREL. The determination of the amount is at its discretion, subject to a set of principles set out in the legislation.[49] The BoE in turn

[48] For example, the BoE's PRA considers resolvability part of its supervisory work, with a view to ensuring that firms are structured and operate in a way that is compatible with the preferred resolution strategy set by the resolution function. Similarly, one of the PRA's eight Fundamental Rules stipulates that all PRA-authorised firms must prepare for resolution so they can be resolved in an orderly manner with a minimum disruption of critical services. While this does not necessarily eliminate the potential for divergence between supervisory and resolution functions on topics such as the desired levels of loss absorbency, it helps to frame the discussion within aligned objectives (see Baudino et al (2021)).

[49] See Article 123 of the Bank Recovery and Resolution (No. 2) Order 2014.

has published a Statement of Policy that sets out its approach to setting MREL.[50] Similarly, in the United States, the use of agency rule-making powers and discretion to frame resolution planning requirements has facilitated modification and tailoring. The most recent example is the FDIC's use of FAQs to waive certain resolution planning requirements for the next submission cycle.

6. Adequate and flexible toolkit

Authorities have a wide array of resolution tools for both "normal" and "extraordinary" failure scenarios that can be applied rapidly when needed.

This feature means that authorities have adequate tools for all types and circumstances of bank failure and can respond with flexibility. This is important since the circumstances of a bank failure, including its actual systemic impact, are often unpredictable. To the extent possible, decisions on resolution action should not require cumbersome checks of detailed conditions. Intervention should be possible following swift interaction between relevant authorities without excessively formal procedural requirements.

The EU/BU framework provides an appropriate range of powers, consistent with international standards. However, as described above, the process of adopting a resolution scheme is complicated by the requirement of endorsement by the Commission. In addition, if the resolution scheme involves the use of more than EUR 5 billion from the SRF, that funding needs to be approved by the Plenary Session of the SRB, with a majority of board members representing at least 30% of SRF fund contributions.[51] As noted by staff of the International Monetary Fund, this entails a possibility that NRAs without national interests at stake in the resolution of the failing banking group could pose an obstacle, which could deter decisive action by the SRB.[52] Moreover, any use of SRF funds or public funds must be assessed by the Commission for compliance with EU state aid rules, and the resolution scheme cannot be adopted until a decision has been made.[53] Experience has shown that the process can be expedited provided that neither the Commission (nor the Council after the Commission) have objections. The involvement of the Commission early in the process assists with this. However, an expedited procedure depends on the familiarity of all involved with the details of the resolution scheme, and a flexible response could be in tension with that.

If there is a doubt about the adequacy of the SRM toolkit, it relates to crisis management in "extreme" conditions in which, for example, the minimum writedown conditions for use of the SRF may be more difficult to meet and the procedure for backstop funding could be cumbersome. The lack of public financial support tools in the SRM also limits options in such conditions.

Comparison with other jurisdictions

Resolution-related decision-making under both the UK and US frameworks is simpler than that within the SRM in "ordinary" cases, meaning those cases that do not imply the need for extraordinary funding. In the United Kingdom, decision-making in such cases takes place within the BoE. In the United States, the FDIC is appointed as receiver of a failing IDI by its chartering authority.

50 The most recent Statement of Policy was published in 2025 and amends that of 2019. See BoE (2025).

51 See Articles 50(1)(c) and 52(2) of the SRMR. The Plenary Session consists of the SRB Chair, Vice-Chair, the four full-time SRB members and the representatives of the NRAs from the BU member states.

52 See IMF (2025). The technical note observes that while the permanent members of the SRB – the Chair, Vice-Chair and the four full-time members – are mandated to act in the interests of the Union as a whole, NRA representatives are not subject to the same obligation.

53 See Article 18 of the SRMR. As noted above, the CMDI proposes streamlining this assessment by aligning the timing with the time frame for the endorsement of the resolution scheme.

In contrast to the BU framework, the UK and US frameworks contemplate the possible need for extraordinary measures in extreme cases and provide a procedure for authorising their use. In both jurisdictions, the process is understandably more complex in those cases than in normal conditions, providing additional checks and governance where public funds are implicated. Where the resolution of a UK bank represents a risk to public funds, the Treasury must be notified as early as possible and take a decision in this regard.[54] In the United States, if the FDIC proposes exceeding the "least cost" limitation in order to adopt a resolution method that mitigates the serious adverse effects of an IDI failure on economic conditions or financial stability, a systemic risk exception would be required. This exceptional procedure requires a written recommendation of at least two thirds of the boards of the FDIC and the FRB to the Treasury Secretary, who must consult the president.[55]

4. Can the BU framework be made more efficient?

The previous section highlights inefficiencies in the BU resolution framework that, in many respects, are greater than those in frameworks of other jurisdictions with developed markets. Those inefficiencies include cumbersome decision-making procedures, granular and complex regulation, a complicated interaction with insolvency regimes, detailed arrangements for coordination between resolution and supervisory authorities and a high degree of codification. They result not from shortcomings in the policy framework, but from the institutional singularities of the EU/BU framework. Taken together, such inefficiencies potentially increase the burdens for industry and authorities and affect the ability of the framework to meet its ultimate objectives. As previously noted, discussions about complexity, inefficiency and effectiveness are linked, and to achieve meaningful improvement the inefficiencies will need to be addressed.

Arguably, attempts to improve the BU resolution regime will always be limited by constitutional constraints. In particular, the lack of a reference to the resolution function in the EU Treaty imposes procedural requirements on the exercise of discretionary powers by the SRB. It should be noted in this regard that the Meroni doctrine has been evolving since its original statement in 1958 in tandem with a growing use of agency powers to help deliver the objectives of the single market and, more recently, the banking union. The Court of Justice of the European Union has distinguished between the delegation of broad discretionary powers and executive powers that are precisely delineated.[56] Recognising this, there

54 This is specified in an MoU between the BoE, HM Treasury and the PRA (HMT (2025)).

55 Use of the procedure is relatively rare. During the GFC, it was used for three very large banking organisations: Wachovia, Citigroup and Bank of America. In the banking turmoil of March 2023, it was used again in the resolutions of Silicon Valley Bank (SVB) and Signature Bank (SB) to enable the FDIC to protect all deposits in banks with large volumes of uninsured deposits that would otherwise have been exposed to loss. As regional banks that were not globally or domestically systemic, SVB and SB were not subject to requirements for additional loss absorbency. A proposed US rule that would require certain IDIs (among others) to issue and maintain a minimum amount of long-term debt was issued for consultation in August 2023, but no further action has been taken to date.

56 Some go even further in arguing that the Meroni doctrine does not require the restrictions that the SRM imposes on decision-making by the SRB. For example, in the context of litigation arising from the resolution of Banco Popular Español (Case C-551/22 P), Advocate General (AG) Ćapeta argued in her Opinion that the involvement of the Commission and Council in the procedure for the adoption of an SRB resolution scheme was not necessary to comply with that doctrine, but rather was a legislative choice (paragraphs 30–1). She argued further that "precluding delegation of discretionary powers to any body but the Commission does not fit today's reality" (paragraph 78) and that delegating discretionary authority to agencies to make individual decisions should be permissible, provided such decisions are subject to judicial review (paragraphs 92–3). However, in its judgment in the case, the Court did not go as far and restated the doctrine, distinguishing between broad discretionary powers and precisely delineated executive powers (paragraphs 72–3).

could be scope to modify the decision-making arrangements within the SRM without breaching the principles on permissible delegation.

While the constitutional framework sets parameters to what can be achieved, with sufficient political support legislation could materially mitigate some of the inefficiencies discussed above. Without major legislative change, other improvement is possible through adjustments in rules or technical standards. However, the impact would be moderate. Both are discussed in the following subsections.

What could legislation do?

Section 2 outlined three specific features of the BU framework that contribute to its complexity, namely: the multiplicity of parties involved in the resolution process, the coexistence of national and EU failure management regimes and the detailed requirements for resolution funding. The first is a product of European institutional arrangements and is likely to remain for the foreseeable future. Nevertheless, a lot could be achieved through legislation to mitigate the impact of the other two features on complexity and inefficiency in the resolution framework.

Interaction of EU and national frameworks

The challenges posed by the coexistence of European and national regimes could be mitigated by adjusting the thresholds for the use of resolution powers to expand the scope of bank failures that will be managed through resolution and narrow commensurately the use of national insolvency regimes. While it would make little sense to bring LSIs within the remit of the SRB since they are directly supervised by national authorities, there is a case for further limiting the extent to which insolvency regimes are used to manage the failure of significant institutions in the banking union.

The CMDI aims to achieve that by reformulating the PIA that determines whether a failing bank that meets the other conditions for resolution should be resolved or subject to an insolvency procedure. It does this by specifying that the latter should only be used if that would better achieve the statutory resolution objectives, which include protection of depositors and continuity of critical functions, compared with resolution measures. This amendment will be a positive step. In the application of that reformulated PIA, it should be made clear that any bank failure that would have material externalities at the level of specific regions or countries should be managed through resolution,[57] provided that the resolution tools available are sufficiently effective to address all relevant systemic risks (see comments about funding below).

However, the CMDI does not comprehensively address the problems that arise from the coexistence of European and national regimes. Its main improvement in this regard is to clarify the interface at the point of failure in an attempt to avoid limbo situations in which a failing bank is neither resolved nor wound down.[58] There is no attempt to harmonise the tools available in liquidation, and although the hierarchy of claims is further aligned by the introduction of general depositor preference, national differences remain. For as long as national insolvency frameworks differ, the assessment of the liquidation counterfactual that is required by the NCWO safeguard and the financial cap for funding by national DGS will remain disproportionally complex for cross-border banks.

The other reform that would improve the efficiency (and effectiveness) of the resolution framework is the establishment of a European Deposit Issuance Scheme (EDIS), managed by the SRB as

[57] The CMDI will permit this by allowing a bank's functions to be considered as critical if their removal could disrupt financial stability or economic activity at a regional level.

[58] Under the CMDI, a determination that an institution is failing or likely to fail should be followed by the withdrawal of its authorisation and the initiation of insolvency proceedings in cases where the public interest threshold for resolution is not met.

part of an integrated failure management regime. First proposed in 2015, EDIS has never been adopted due to persistent political obstacles.[59] However, the rationale for it remains. The foremost reason is to address the residual sovereign-bank nexus. Among other positive effects, EDIS would put an end to the current provisions under which national DGS are supposed to contribute to funding resolution actions decided by the SRB.[60] This arrangement represents a misalignment of costs and responsibilities. While under the current arrangements DGS support is marginal,[61] the issue will become significantly more pertinent once the provisions of the CMDI facilitating greater use of DGS funding in resolution apply.

Funding arrangements and the complexity of MREL

Legislation could also improve the efficiency and effectiveness of the resolution framework by modifying the arrangements for resolution funding. As noted, the detail and complexity of the provisions governing MREL are linked to the restrictions on external funding. Inherent in the framework is a reluctance to rely on mutualised sources of funding that spread costs across the banking sector. The methodology set out in the BRRD aims at precisely calculating the amount of loss-absorbing and recapitalisation capacity that would be needed to execute a bank's resolution strategy effectively. More flexible arrangements for external funding could enhance the effectiveness of the resolution framework and make it possible to reduce the stringency of MREL requirements where appropriate.

The CMDI package makes a pragmatic and material contribution to reducing the constraints on use of external funding. Provisions to facilitate the use of DGS funds in resolution transfers and to count that support to help meet the 8% minimum bail-in condition for access to the SRF (the "DGS bridge") are steps in the right direction. The changes will meaningfully increase funding for resolution of smaller and medium-sized banks, which are most likely to be subject to a sale of business. However, while important, this is not sufficient. The banks with transfer-based strategies are a minority of the banks that are expected to be subject to resolution,[62] and the use of DGS funding to meet the required 8% loss absorbency will be subject to conditions that limit its application.

The scope for simplifying MREL calibration is greater if external – ideally, industry-sourced – funding is available where needed. The UK framework provides an example in that regard. As explained above, recent UK legislative changes introduced an external funding mechanism that can be used to facilitate a transfer strategy. This has allowed the BoE to materially simplify and reduce MREL calibration for smaller banks that are expected to be resolved using transfer powers. By contrast, potential DGS support for banks with a transfer strategy does not have a similar consequence under the current EU and BU framework or the CMDI. The UK mechanism also supports flexibility by providing a source of resolution funding for a bank that had been expected to be subject to insolvency if, in the circumstances of its failure,

59 The political obstacles could be surmountable. The Commission's targeted consultation suggests that developments in the EU banking sector since 2015, including greater resilience as a result of the regulatory framework, MREL and improved resolvability, the full functioning of the SRM and the single supervisory mechanism, and the fact that national DGS and the SRF have reached their target levels, could lead to a rethinking of the necessary design features of the deposit insurance system in Europe (EC (2026)).

60 Under Article 79 of the SRMR, national DGS are liable to contribute funds to support a resolution bail-in or transfer transaction that delivers depositor protection objectives by ensuring continuity of access to insured deposits.

61 The amounts in question are currently low or negligible in most cases because the contribution is capped at the costs the DGS would have incurred in a payout of insured deposits, net of recoveries in liquidation. The super-priority of insured deposits makes it likely that the deposit insurer would recover all or most of those costs. The CMDI is expected to modify that cap.

62 Figures from the fourth quarter of 2024 indicate that, of the 84 banking groups in the banking union that are expected to be resolved rather than liquidated in the event of failure, just over one quarter (22) had a transfer-based strategy while the rest (62) were expected to be subject to bail-in as the principal resolution tool. SRB (2025a).

resolution is in the public interest. While the mechanism is jurisdiction-specific, the principle is more generally relevant.

For the banking union, greater access to external funding for resolution would only support simpler and less stringent calibration of MREL if that funding were factored into the determination and available with a degree of flexibility similar to that under the UK mechanism.[63] This is not the case today. For example, MREL for banks with a preferred resolution strategy based on transfer is calculated as the sum of an LAA and an RCA in a way that is methodologically the same as for banks that are expected to be resolved through open bank bail-in. While calibration may, to some extent, recognise smaller recapitalisation needs following a transfer, there is no recognition of external, industry-sourced funding that is contemplated in the legal framework. Moreover, this remains the case under the CMDI. Although that reform envisages greater access to external funding for transfer transactions, including the DGS bridge to use of the SRF, it does not substantially change the approach to MREL.

More far-reaching simplification could accompany a fundamental reform of the regulatory capital stack. Currently, MREL can be met with a wide range of instruments – equity, debt instruments or even certain deposits – and, as outlined above, the minimum subordination requirements depend on the characteristics of the bank in question.[64] The use of regulatory capital instruments (CET1, AT1 or T2) as MREL can lead to a complex interaction of going- and gone-concern requirements. Moreover, it is possible that, for some banks, a material portion of MREL consists of equity, which might not remain on a bank's balance sheet when it enters resolution. While well capitalised banks have a lower probability of default, resolution takes place when equity has largely disappeared. Banks with a strong solvency position today might not be resolvable tomorrow if their MREL does not include sufficient non-equity instruments that will remain following financial decline to absorb losses in resolution. If loss absorbency for resolution were restricted to eligible long-term debt instruments, a simpler and more effective approach to MREL would be possible.[65]

However, even without such radical reform, the current methodology for MREL calibration that is prescribed by the legal framework is arguably not an efficient approach. Given the uncertainty that surrounds the actual loss absorbency needs in resolution, a simpler approach might achieve comparable levels of confidence with greater efficiency.[66] Options such as a direct application of the – arguably simpler – TLAC standard or an even simpler Pillar 1 formula that would apply to all banks with the same preferred resolution strategy are worth exploring. For example, for banks with an open bank bail-in strategy, that formula could be as simple as 8% of total liabilities and own funds (on top of regulatory capital requirements), as this would permit use of the SRF in cases in which further resources are needed.

63 For example, see Restoy (2023) for an analysis of how MREL for banks with a transfer strategy might be reduced by taking account of available DGS funding.

64 This contrasts with other frameworks for resolution-related loss-absorbing capacity, which require all eligible instruments to be subordinated (see Baudino et al (2025)).

65 This idea is expanded in Borio et al (2025). The paper discusses the components of the capital stack and their different roles and suggests how the capital stack might be simplified in a way that improves its effectiveness in both going- and gone-concern situations. Other initiatives also focus on debt as an appropriate form of gone-concern loss absorbency. For example, the proposed rule issued for comment by US banking regulators in August 2023 (FDIC et al (2023)) would require certain large banking institutions to issue and maintain a minimum amount of long-term debt to support resilience and resolvability. To date, there has been no action to pursue the proposal. Within the European Union, the ECB Governing Council recently proposed simplification of the prudential framework which included aligning MREL better with TLAC, reducing its complexity and reviewing its interaction with the going-concern framework (ECB (2025)).

66 In its targeted consultation, the Commission seeks views on options for simplification that include better aligning MREL to TLAC by making the calibration more predictable and transparent, with less discretion for resolution authorities; providing for it to be met with more subordinated instruments; and introducing a minimum debt requirement (EC (2026)).

In exceptional circumstances, public backstop funding may be key to avoiding systemic impacts. Public backstop funding is available in most jurisdictions, subject to appropriate governance procedures and recovery mechanisms.[67] The BRRD includes discretionary government stabilisation tools – implemented in some member states – that allow a bank to be taken into public ownership or recapitalised using public funds as a last resort if the resolution objectives cannot be met using the other resolution tools.[68] However, these tools are not specified in the SRMR. That Regulation refers only to bail-in, sale of business, bridge bank and asset separation tools, and provides that a resolution scheme adopted by the SRB should determine how those tools are to be applied to the failing bank.[69] This means that if the resolution tools within the SRM cannot achieve the resolution objectives in the circumstances of the failure of a bank within the SRB's remit, it is uncertain how that failure would be handled in practice.

Finally, it should be emphasised that the discussion here of funding focuses on loss absorption and recapitalisation. There is also broad recognition that liquidity continues to be an unsolved issue in the BU resolution framework. Without sufficient liquidity, the ability of the SRM to deliver the resolution objectives and preserve financial stability is severely compromised. However, this paper does not focus on that key dimension other than to note that it cannot be addressed through loss-absorbing capacity.

Some easy fixes

The scope for easy fixes is limited since much of what increases complexity is set out in the BRRD and SRMR. However, there are measures that could improve the efficiency of the framework by streamlining requirements and removing those that overlap or are superfluous. Much of this can be achieved through delegated rule-making or practices, and work to this end is in train.

For example, the SRB has taken steps to alleviate burdens on banks by decreasing the frequency with which they are required to update mature documents such as playbooks and communication plans, and is working with the EBA and ECB to coordinate engagement with banks and avoid duplicating information requests.[70] Other potential areas for simplification identified by the SRB would require changes in legislation or rules but may be easier to adopt since they would not affect the fundamental structure or philosophy of the regime. These include further proportionality through simplified obligations for smaller banks; reducing the frequency with which resolution plans are reviewed and updated by changing, for example, from the annual cycle specified in the BRRD to a cycle of two or three years; and a review of the requirement that banks seek prior permission from the SRB for early redemption of MREL instruments.[71]

The EBA is also undertaking simplification initiatives regarding information requirements for resolution planning that are covered by EBA technical standards, adopted under rule-making powers in the BRRD. To this end, it has produced a new set of Implementing Technical Standards (ITS) on the

67 See Vrbaski et al (2025) for an overview of public support arrangements and key design features.

68 See Articles 56–8 of the BRRD.

69 Article 22(2) of the SRMR specifies the resolution tools and Article 18(6)(b) prescribes what a resolution scheme should do. Relatedly, Article 8(5) specifies that a resolution plan developed by the SRB should set out options for using the resolution tools and powers that are referred to in that regulation, and Article 8(6)(a) specifies that a resolution plan should not assume any extraordinary public financial support other than use of the SRF.

70 See Braun-Munzinger (2025). The SRB's ongoing work on simplification is summarised in an unofficial report (SRB (2025c)).

71 See SRB (2025c). By comparison, the BoE only requires a bank to seek prior permission to redeem, repay or repurchase instruments that count towards MREL where, as a result of that action, it would either breach its MREL or start to deplete its applicable capital buffers. In other cases, no permission or approval is required. The Commission's targeted consultation seeks views on simplification of the EU prior permissions regime (EC (2026)).

provision of information for the purposes of resolution plans[72] to replace those that have been in place since 2018 and new Regulatory Technical Standards (RTS) on the contents of resolution plans, resolvability assessments and the operation of resolution colleges.[73]

The revised ITS pursue simplification and increased proportionality by eliminating information that is either redundant or of limited value and addressing parallel data collection. Efficiency is enhanced by improving the usability of the data collected. The scope of reporting obligations for some reporting entities, based on size and complexity, is reduced through a new modular approach that distinguishes between core and supplementary information requirements.

The draft RTS aim, in a similar vein, to simplify and streamline resolution plans by rationalising the structure, removing non-essential details and focusing the contents on information that is directly relevant to the bank concerned and necessary to implement the resolution strategy. They also simplify operational procedures within resolution colleges, for example by reducing the number of steps required to reach joint decisions. Such changes respond to criticisms that existing procedures are lengthy and cumbersome, inefficiencies that can have a direct impact on the effectiveness of activities in the run-up to a resolution.

These initiatives are welcome. Irrespective of a wider simplification agenda, periodic review of requirements is good administrative practice. However, the impact of such easy fixes is limited. They cannot address the structural drivers of the inefficiencies discussed or make a material contribution to improving the competitiveness of the European banking sector.

5. Summing up

Unnecessary complexity has costs. It increases the compliance burden for firms, and monitoring by authorities requires more resources. An excessively complicated framework is less efficient and may also be less effective. The current regulatory focus on simplification or modernisation therefore offers a welcome opportunity to consider how the EU/BU resolution framework can be made more efficient and better able to support the competitiveness of the European banking industry without compromising its objectives.

A key purpose of this paper is to argue that there is a link between inefficiencies in that framework that arise from the complexity and specific institutional features of the EU/BU. Importantly, those features also largely explain the specificities of the BU resolution framework that could undermine its ability to manage all types of banking sector failure and to support the foundational objectives of the banking union. While efforts to simplify the technical rules that implement the framework are a necessary part of good regulatory maintenance, the improvements they make will be marginal. Any agenda that aims to improve the efficiency of the resolution framework in a material way must make changes to those institutional features.

While it is probably not realistic to address some features that lead to complex or inefficient procedures, ambitious legislation could make a significant difference to others. The paper has highlighted three institutional features that have made the EU/BU resolution framework more complex than that of other jurisdictions with a developed banking sector. One that is likely to remain for the foreseeable future is the number of parties (both national and European) involved in the resolution process, since it is a product of European institutional arrangements whose modification would require changes to the Treaty.

[72] See EBA (2025a). The ITS were adopted by European Commission Implementing Regulation (EU) 2025/2303..

[73] See EBA (2026). The draft RTS have been submitted to the Commission for review.

However, legislation could mitigate the impact of the other two features, the parallel operation of national and EU failure management regimes and the detailed requirements for MREL that are linked to the restrictions on the use of funds from mutualised sources. In particular, the framework for MREL calibration could be simplified without compromising its effectiveness, and greater availability of external sources could allow greater flexibility.

The CMDI package has started the necessary discussion but does not go far enough. The reason for that is political: in particular, a reluctance to make significant changes to the arrangements for funding and burden-sharing that underpin the current framework. Ultimately, more far-reaching reform will be needed to reduce costly complexity and fully achieve the objectives of the banking union.

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Annex

Overview of UK and US frameworks

United Kingdom

Institutional framework

The UK resolution framework derives from the BRRD. It has the same statutory objectives, conditions for entry into resolution, resolution tools (including the discretionary government stabilisation tools for temporary public ownership and recapitalisation) and framework for MREL. It exists in parallel with a judicial insolvency framework which includes modified procedures for banks.

Supervisory and resolution functions are co-located within the Bank of England (BoE). This facilitates cooperation and information-sharing. Internal mobility also means that there is a pool of informed staff that can readily be transferred temporarily to support the resolution function where additional resources are needed for a resolution.

Resolution planning and resolvability

The BoE is responsible for resolution planning for all UK incorporated banks and building societies (including subsidiaries of foreign firms). Resolution planning requires submissions from firms on a two-year cycle. While some 400 entities fall within the scope of the resolution planning framework, the overwhelming majority are expected to be subject to an insolvency procedure if they fail. The existence of insolvency regimes that have been modified for banks, coupled with the efforts made to improve depositor outcomes in insolvency through eg improved continuity of services and faster payout,[74] makes insolvency a plausible strategy for managing smaller bank failures.

The BoE has made the banks with bail-in and transfer strategies responsible for their own resolvability under the Resolvability Assessment Framework (RAF). Under the RAF, banks must assess their resolvability against three outcomes focused on adequacy of financial resources, capabilities to support continuity and restructuring, and capabilities relating to coordination and communication. UK firms with at least GBP 50 billion in retail deposits are required to submit a report of that assessment to the Prudential Regulation Authority (PRA) and publish a summary, while the BoE periodically publishes a statement on the resolvability of those firms.

MREL calibration

As in the banking union, the level of MREL a bank is required to maintain is linked to its resolution strategy. However, the UK approach to calibrating bank-specific MREL is simpler. The BoE has set out the factors that it will consider when determining that strategy and how it may affect the bank's MREL calibration. Those factors comprise quantitative thresholds and qualitative considerations that guide whether the strategy will be a procedure under the applicable modified insolvency regime, a transfer transaction or a bail-in strategy. In 2025, the BoE published a revised Statement of Policy on its approach to setting MREL that updates the indicative thresholds for each strategy, effective from January 2026.[75]

74 See BoE (2023).

75 See BoE (2025).

Banks with a bail-in strategy must maintain the higher of two times the sum of their Pillar 1 and Pillar 2A requirements and two times the applicable leverage ratio requirement (other than G-SIBs, which are subject to an enhanced requirement consistent with the FSB TLAC standard). The UK framework does not include an explicit market confidence charge.

Under its published MREL policy, the BoE may reduce the recapitalisation component for a bank with a transfer strategy to reflect the fact that less than the entire balance sheet would need to be recapitalised in resolution. In a revised Statement of Policy published in July 2025 and effective from the beginning of 2026, the BoE indicates that it does not expect to set MREL above minimum capital requirements for those banks.

This change reflects increased flexibility in funding arrangements, through a new mechanism by which the UK Financial Services Compensation Scheme (FSCS) can provide funds to support small bank resolution using transfer powers when it is in the public interest to do so.[76] The funds would be used to recapitalise the failing bank in order to achieve a sale of the whole bank or part of its business to a private sector purchaser or a bridge bank if the bank itself has insufficient internal resources for this purpose. The mechanism is intended to be used only once the regulatory capital of the failed bank has been written down. However, it is not subject to the prior writedown of 8% of total liabilities and the amount available is not capped. Funds provided will be recovered from the industry through levies.

United States

Framework for insured depository institutions (IDIs)

All IDIs are subject to a single insolvency framework – the Federal Deposit Insurance Act (FDI Act) – under which the FDIC, as receiver, resolves a failing IDI either through a sale or purchase and assumption (P&A) transaction or through liquidation (or a combination of both). The deposit insurance fund (DIF), controlled by the FDIC, may be used either to facilitate a P&A or to pay out insured deposits. The strategy is determined by a requirement that the FDIC pursue the failure management option that is least costly to the DIF.

Resolution planning requirements for IDIs

IDIs are subject to resolution planning requirements under the FDI Act. These requirements are imposed under rules adopted by the FDIC, conferring flexibility to tailor their application as considered appropriate. Their application has been modified several times.

Under the rule as first issued in 2012, the resolution planning requirement applied to IDIs with over USD 50 billion in total assets. In 2018, its application was suspended, pending further rule-making, by a full moratorium, and requirements were reinstated through a policy statement in 2021 for IDIs with total assets of more than USD 100 billion. A new resolution planning rule adopted in 2024 distinguishes between IDIs with assets over USD 100 billion (Group A) and those with assets between USD 50 and 100 billion (Group B) and applies different requirements relating to the frequency with which firms must submit resolution plans and the required contents of informational filings.[77] In 2025, the FDIC waived certain requirements under the 2024 rule for the upcoming submission cycle through FAQs.

[76] Established by the Bank Resolution (Recapitalisation) Act 2025.

[77] Broadly speaking, Group A IDIs must submit resolution plans triennially (or biennially if affiliated to a US G-SIB), with interim supplements containing a subset of the information in the resolution plan in the intervening years. Group B IDIs must submit informational filings on a triennial basis, with interim supplements in the intervening years. Group B informational filings are based on the contents of Group A resolution plans, but omit certain elements. The interim supplements contain a subset of the information required in the informational filing.

Framework for bank holding companies (non-bank financial institutions)

Non-bank financial institutions, including bank holding companies (BHCs), may be wound up under applicable sections of the US Bankruptcy Code. Where necessary to protect financial stability, large, systemic non-bank financial institutions can be resolved by the FDIC using its Orderly Liquidation Authority (OLA) under Title II of the Dodd-Frank Act.

Resolution planning requirements for BHCs

Systemically important BHCs are subject to planning for both possible routes of failure management. The FDIC carries out resolution planning under Title II of the Dodd-Frank Act. The firms are also required to develop their own Title I resolution plans or "living wills" demonstrating how they could be resolved under the US Bankruptcy Code.

The original assets threshold for Title I resolution planning requirements for BHCs was USD 50 billion. The 2018 Economic Growth, Regulatory Relief and Consumer Protection Act raised the threshold for general application of enhanced prudential standards (which include resolution planning) to USD 250 billion in total consolidated assets but provided the FRB with discretion to apply the enhanced standards to BHCs with total assets of USD 100 billion or more, which the FRB has done. Resolution planning requirements apply in accordance with tailoring categories adopted by the FRB in response to the 2018 Act.

The frequency of filing and the contents requirements for Title I resolution plans are adjusted for the four tailoring categories. G-SIBs must submit Title I plans every two years, alternating full and targeted plans. Firms in Categories II and III (collectively and simplifying, firms with at least USD 250 billion in total consolidated assets or at least USD 100 billion in assets with additional risk factors) must submit Title I plans every three years, alternating full and targeted plans. Targeted plans focus on core areas such as capital and liquidity, together with any material changes since the last full plan. Category IV US firms are not required to file resolution plans. Foreign banking organisations with over USD 250 billion in global assets (but which do not fall into Categories II or III based on US consolidated assets) are required to file reduced plans every three years. Reduced plans only contain changes since the last full filing.

Loss-absorbing capacity and funding

G-SIBs are subject to TLAC requirements, but there is currently no requirement that IDIs issue additional loss-absorbing capacity to support resolution. A proposed rule-making issued by US banking regulators in August 2023 consulted on a requirement that certain large depository institution holding companies, US intermediate holding companies of foreign banking organisations and certain IDIs issue and maintain a minimum amount of long-term debt.[78] Following the premise that the banks in question pose less risk than G-SIBs, the proposed requirement would be lower than TLAC, ie 6% of risk-weighted assets, 3.5% of average total consolidated assets and, where applicable, 2.5% of total leverage exposure. However, no further action has been taken to date.

Additional sources of funding are available where needed to manage systemic risks posed by a failure. Title II establishes an Orderly Liquidation Fund (OLF) at Treasury as a liquidity facility that the FDIC may draw upon to lend to a non-IDI financial company in receivership. In the resolution of an IDI, a systemic risk exception is available in exceptional circumstances to allow the FDIC to override the least cost test and use a costlier resolution method where necessary to limit the systemic impact of a failure.

[78] See FDIC et al (2023).