

Institutional arrangements for bank resolution¹

Executive summary

One of the main lessons from the Great Financial Crisis was the need for robust bank resolution frameworks. In response, the Financial Stability Board developed international standards in the *Key Attributes of Effective Resolution Regimes for Financial Institutions* (Key Attributes), and many jurisdictions have substantially strengthened existing, or established new, frameworks for managing bank failures.

Those resolution frameworks must be supported by institutional arrangements that have several important features. While the Key Attributes are not prescriptive about where resolution functions should be located within a jurisdiction's institutional architecture, they do set out a number of principles that the institutional arrangements should meet, irrespective of their location. Core to those principles is the expectation that resolution authorities should have the necessary operational independence to carry out their functions, and that mechanisms are in place to control any conflicts of interest that arise between resolution and other functions carried out by the authority.

Internationally, approaches to the institutional location of resolution functions vary. Common locations are the central bank, the prudential supervisory authority or the deposit insurer. This paper reviews how the principles set out in the Key Attributes are implemented in the institutional arrangements in 16 jurisdictions, chosen as a representative sample of different institutional models. The review draws predominantly on interviews with officials from the relevant authorities in those jurisdictions. The interviews focused on features such as the mechanisms for ensuring operational independence and control of conflicts of interest, arrangements for cooperation with other domestic authorities, and the resources, accountability and legal protection of the resolution function.

The decision about where to locate the resolution function entails trade-offs. For example, consideration should be given to the interplay between the operational independence of the resolution function and its cooperation with other relevant functions – the supervisory function in particular. When the two functions are located within the same institution, the internal arrangements generally need to balance the exploitation of synergies, on the one hand, and the management of potential conflicts of interest, on the other. Conversely, when the resolution and supervisory functions are located in different institutions, the emphasis is likely to be on ensuring effective coordination and information-sharing between them.

The mechanisms for achieving a suitable balance between the resolution and supervisory functions generally combine legal or structural separation with well developed cooperative arrangements. The authorities interviewed recognised a possible tension between the operational independence of the resolution function and its synergies with supervision, but considered the various mechanisms in place for ensuring appropriate autonomy to be effective. These mechanisms include legal or structural separation of the resolution function from supervision and other functions with which conflicts of interest could arise; internal governance arrangements for informed decision-making that allow conflicting views to be weighed and resolved; and multi-level arrangements for coordination, supported by effective information-sharing. A framework of accountability and transparency, including review or reporting of its activities, may also support the actual and perceived operational independence of the

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The authors are grateful to contacts at the financial authorities covered in this paper and to David Archer, Eva Hüpkes, Marianne Klumpp, Hans Sassen, Alfonso Ventoso and Jeffery Yong for helpful comments. Annick Seagrave provided valuable administrative support with the paper. The views expressed herein are those of the authors and not necessarily those of the BIS, BdE or other Basel-based standard setters.

resolution function. The form and combination of these mechanisms vary depending on the model of institutional arrangements for resolution, but they are present to a greater or lesser degree in all the featured jurisdictions.

Conflicts of interest between the resolution and supervisory functions can arise irrespective of whether they are institutionally co-located or separate. All forms of institutional arrangements therefore need to ensure that material conflicts are identified, and managed by close coordination and information exchange. Where the functions are in separate authorities, it is likely that greater attention needs to be devoted to ensuring there are well developed cooperative arrangements that allow issues of mutual interest to be discussed, differences to be exposed and addressed, and policies coordinated where necessary. Where the two functions are co-located within the same institution, governance arrangements and decision-making procedures need to ensure that disagreements are solved internally in a way that is consistent with the authority's mandate and statutory objectives. One challenge in this context is ensuring that the resolution function has sufficient weight in decision-making arrangements.

In spite of the need for an autonomous resolution function, there are clear benefits to institutional arrangements that facilitate close cooperation between the two functions. The bank resolution function in its current form is relatively new, and untested, in many jurisdictions, and practices may be still developing. In particular, the institutional balance between operational independence of the resolution function on the one hand, and exploiting synergies on the other, is evolving in some authorities as new arrangements mature. Firm conclusions on the benefits of specific institutional arrangements may therefore be premature, although experience to date emphasises the advantages of arrangements that provide a strong framework for cooperation between the two functions, coupled with decision-making procedures that can effectively resolve conflicts.