

出國報告（出國類別：會議）

## APEC 金融監理人員訓練倡議—金融管理 危機：如何洞察危機研討會報告

服務機關：金融監督管理委員會銀行局

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## 壹、會議目的

2018 年亞太經合會(APEC)金融監理人員訓練倡議對於銀行監理人員所舉辦之訓練主題計有「科技運用與風險管理」(Technology Operation and Risk Management)、「總體審慎監理」(Macroprudential Supervision)、「金融監理面之防制洗錢與打擊資恐」(Anti-Money Laundering and Counter Terrorist Finance Supervision)及「金融危機管理：如何洞察危機」(Financial Crisis Management: How to detect the crisis)等四項。該訓練倡議之目的，在提升銀行監理人員對於維持金融體系穩定之能力。

本次會議主題為「金融危機管理：如何洞察危機」，由印尼中央銀行及亞洲開發銀行共同主辦，邀請日本中央銀行金融體系研究組副組長 Mitsuhiro Osada、東南亞中央銀行(The SEACEN Centre)金融穩定與監理、支付與結算系統之資深金融部專家 Aziz Durrani、泰國中央銀行金融穩定組助理組長 Bodin Civilize、菲律賓中央銀行 Financial Supervision Sub-sector III 董事總經理(Managing Director) Arifa Ala、及香港金融管理局清理處資深經理 Ang Li 擔任講師，向各參與人員講授危機管理之基礎架構與抵減工具、金融安全網、復原與清理計畫等課程，並透過個案研究方式，使學員獲得更務實的學習效果。

本次研討會計有 9 個 APEC 會員經濟體之金融監理機關或中央銀行派員參加，包括柬埔寨(2 人)、中國(1 人)、印尼(20 人)、韓國(1 人)、馬來西亞(5 人)、尼泊爾(3 人)、菲律賓(3 人)、泰國(1 人)及我國(2 人)共 38 人參與。

## 貳、研討會主要內容

本次研討會之議程內容詳附錄一。研討方式係採理論介紹與個案研究並重方式，進行為期四天的研討會。謹摘述研討會主要內容(相關原文資料詳附錄二~三)如次：

### 一、金融機構清理機制(resolution regime)

#### (一) 金融穩定委員會(FSB)<sup>1</sup>發布新規範

2007年至2008年全球金融風暴，各國政府為紓解金融困境，別無選擇地只得以納稅義務人的錢對系統性重要銀行(systemically important banks)進行紓困，例如：英國政府挹注了1,330億英鎊、美國政府在不良資產救助計畫(Troubled Asset Relief Program)中，亦注資了4,000億美元。全球金融風暴後，G20及各國金融監理機關積極研議新機制，以期降低系統性重要銀行發生「太大不能倒(Too Big to Fail)」問題，並以有序清理(in an orderly resolution)為目標，避免動用公眾資金援助該等機構。

2011年11月G20領袖於坎城高峰會簽署了金融穩定委員會提出的「金融機構有效清理機制核心要素」(Key Attributes of Effective Resolution Regimes for Financial Institutions, *Key Attributes*)，作為清理系統性重要金融機構之新規範。FSB並建議其每一成員地區都應設立金融機構有效清理機制，俾於金融機構不能持續營運時，協助維護金融穩定及保障公眾資金。

金融穩定委員會2011年發布該文件時，鑒於各國法律制度不一、市場環境及個別機構考量(如：保險業、金融市場基礎架構)等，為促使各國能有效及一致性的執行清理機制，規劃將進一步發展執行指引，爰於2014年10月修正

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<sup>1</sup>全球金融海嘯爆發後，G20有感於國際金融合作之不足，於2009年6月20日將原金融穩定論壇(FSF)擴大成為金融穩定委員會(FSB)，賦予跨國金融監理的職權。

版中，將有關資訊共享、保險業清理及客戶資產保護之兩篇指引列於附錄，2011年原文件所列 12 項核心要素則維持不變。

## (二)「金融機構有效清理機制核心要素」(*Key Attributes*)

*Key Attributes* 文件所列 12 項核心要素，分別為(1)清理機制適用範圍；(2)清理機關；(3)清理權限；(4)抵銷、結算、擔保品、客戶資產隔離；(5)保障措施；(6)臨時性清理資金；(7)跨國合作之法律架構條件；(8)危機管理小組；(9)個別機構跨國合作協議；(10)清理可行性評估；(11)復原及清理計畫；及(12)資訊取得及共享。前揭核心要素中，第 7、8 及 9 項與清理機制之跨國合作議題有關，謹就其內容及第 11 項復原及清理計畫摘述要點如下：

### 1. 跨國合作之法律架構條件(Legal framework conditions for cross-border cooperation)

- 須授予清理機關法定職掌，並強力鼓勵清理機關與國外清理機關合作處理。
- 本國法規不可規定，當他國對某系統性重要金融機構為行政干預、進行清理或進入破產程序，本國即自動對境內該系統性重要金融機構啟動清理程序，但當欠缺國際合作及資訊分享機制時，本國為達到國內金融穩定可保有裁量權，惟應考量對他國金融穩定之衝擊。
- 本國清理機關對於在其境內設立之外國金融機構分行應具備清理權力，並有能力運用該權力依母國清理機關方式辦理(如命令該分行將境內資產移轉予母國清理機關所設立之過渡機構)，或當母國清理機關不為清理、或所採取方式無法維持本國金融穩定時，亦可依自己方式進行清理，惟此須事先通知並諮詢母國清理機關。
- 本國清理工規不可因債權人國籍、求償地點及支付範圍而有不同；債權人

之求償順位應予透明化，並適度揭露予存款人、被保險人及其他債權人知悉。

-各國應制定透明、可迅速執行之清理程序，透過相互承認或在本國清理機制下採取支持及與母國一致之清理措施，使母國清理機關所採取措施能有效實行，並能迅速掌控其在地主國之系統性重要金融機構分行、子行、或渠等資產。

-清理機關須具備法人人格，於足夠資料保密要求下，與國外相關權責機關(如：危機管理小組成員)共享資訊，所分享之資訊包括金融機構集團、子行、或分行之復原及清理計畫。

-各國應備有保密要求與法定保障，俾保護自國外權責機關獲得之資訊。

2. **危機管理小組(Crisis Management Groups, CMGs)**：要求全球系統性重要金融機構(Global Systemically Important Financial Institutions, G-SIFIs)之母國及主要地主國主管機關應維持其 CMGs 能達到強化跨國金融危機準備、及促進管理與清理跨國金融危機機構之目標。CMGs 並應適時就下列事項向金融穩定委員會提出報告：(i)小組成員間互相協調及為資訊分享，並將資訊分享予不在 CMGs 內之地主國主管機關之進展；(ii)於個別機構跨國合作協議下，對 G-SIFIs 進行復原及清理計畫程序；及(iii)對 G-SIFIs 之清理可行性評估(resolvability assessment)情形。

3. **個別機構跨國合作協議(Institution-specific cross-border cooperation agreements, COAGs )**：要求至少 G-SIFIs 之母國及攸關地主國主管機關須簽署本項協議，協議內容尤其係在(i)透過 CMGs 之合作，建立清理目標與程序；(ii)訂定危機發生前(即復原及清理計畫階段)及發生時，監理機關之角色與責任；(iii)建立危機發生前及發生時，資訊共享之程序(包括與

非 CMGs 成員國)，並載明各國有關資訊共享之資料保護與保密法；(iv)規劃金融機構(包含母公司、控股公司、重要子公司、分行及聯屬企業)復原及清理計畫時，各國協調之流程與步驟；(v)建立母國及地主國監理機關於清理可行性評估時之協調流程；(vi)建立當金融機構發生重大不利發展，母國(或地主國)主管機關尚未採行重要危機清理措施前，應及時通知及諮詢地主國(或母國)監理機關之程序；(vii)對於有關跨國合作具體的清理措施(包括設立過渡金融機構、將某些債務減計或轉換為股份以進行資本重建(bail-in)等)，明訂適當之作業細節；(viii)至少每年舉行會議，由母國及攸關地主國監理機關高階主管檢視 G-SIFIs 整體清理策略之強健性；及(iv)由母國及攸關地主國監理機關資深官員定期或至少每年，檢視執行清理策略之作業計畫。

4. **復原及清理計畫**(Recovery and resolution planning, RRP)：要求各國至少須針對國內系統性重要金融機構(Domestic Systemically Important Financial Institutions, D-SIFIs)，持續規劃其 RRP。各國並應對 G-SIFIs 及萬一倒閉時可能影響金融穩定之其他金融機構，要求備妥健全且可靠之 RRP，並將 *Key Attributes* 文件附錄三所列之基本要素納入。此外，RRP 之訂定並應考量個別金融機構之特性、複雜度、關聯性、可替代性及規模等因素，及依清理可行性評估結果進行調整。另為利各國清理機關辦理金融機構所擬復原計畫之評估，及對金融機構清理計畫之準備工作，各國應要求該等機構之高階管理階層提供必要資訊。

### (三)「發展有效清理策略之指引」

#### (Guidance on Developing Effective Resolution Strategies)

金融穩定委員會為協助監理機關及金融機構執行符合 *Key Attributes* 文

件有關復原及清理計畫之要求，於 2013 年 7 月發布三篇指引文件，其中一篇為發展有效清理策略之指引(Guidance on Developing Effective Resolution Strategies)，提供制定有效清理策略所須考慮之要素，並提供二種清理方法。

### 1. 單點切入法(Single Point of Entry, SPE)及多點切入法(Multiple Point of Entry, MPE)

母國及地主國清理機關組成之 CMGs 於發展 SIFIs 清理策略時，須先決定採行 SPE 或 MPE 策略，惟亦非僅得選擇二者之一，亦有可能採取混和型，如：採行 MPE 策略，但對集團內不同機構採行多重 SPE 清理方法。

單點切入法係指由負責 SIFIs 集團監理之母國清理機關，對上層母公司或控股公司執行清理權力(如：bail-in、transfer tools 等)，地主國清理機關則配合母國清理方法執行其權力。由於集團內發生之損失係由上層母公司或控股公司所吸收，因此倘若上層母公司或控股公司有足夠之 LAC 債務工具以吸收損失，其子公司則可繼續營運而無須進入清理階段。

多點切入法則係指由二個(含)以上之清理機關對 SIFIs 集團內不同機構執行清理權力之策略，這種策略經常會將 SIFIs 拆分成二個(含)以上機構，其拆分方式可能以國家別或地區別、或營運性質 (business lines)，或以前揭二者相混拆分。由於對集團內不同機構所採行之清理權力無須一樣，亦有可能更多樣化，為避免對清理措施之有效性造成損害，各國之間須緊密進行協調。

### 2. 充足損失吸收能力 (Sufficient loss absorbing capacity, LAC)

制定有效清理策略所須考慮要素之一，係 SIFIs 須有充足的損失吸收能力，足供其資本重建 (recapitalization) 或以有序方式逐漸結束業務 (wind down of the firm)，而無須以公眾資金對其提供紓困。LAC 可以是權益證



券、次順位債券、優先無擔保債券、及其他無擔保債務、非保額內存款等形式，清理機關須就債權清償順位，確定 LAC 工具之償付順序。

採 SPE 策略時，須明確說明上層母行或控股公司之 LAC 總額及類別，並評估當集團內子公司或其他附屬公司進入清理階段時，LAC 吸收損失之能力是否充足。LAC 發行方式最好是以股權或長期債券，且不能太集中在其他金融同業、或保險公司、或退休基金，以防止該等股權或債權遭減計 (write-down) 時，影響金融穩定。

採 MPE 策略時，每一受拆分清理之機構應具備足夠 LAC，用以支應其可能損失，或者至少應在業務逐步減縮時，不會影響集團內其他機構。因此須評估每一個受清理機構現有的 LAC 總額、存款保險範圍、或其他可承擔損失之保障基金。

(四)「G-SIBs 進行清理時損失吸收及資本重建能力之原則與總損失吸收能力條款清單」(下稱「TLAC 原則與條款清單」)

*(Principles on Loss-absorbing and Recapitalization Capacity of G-SIBs in Resolution - Total Loss-absorbing Capacity (TLAC) Term Sheet)*

金融穩定委員會為清理因 G-SIFIs 所衍生之風險，達到降低該等機構發生倒閉機率及倒閉所造成之影響，自 2010 年起列出多項議題進行研議，並已獲得豐碩進展。惟為了讓母國及地主國主管機關、市場參與者，確信系統性重要銀行不再是「大到不能倒」，且無須透過公眾資金即可進行清理，則有必要要求系統性重要銀行於清理前及清理時均應具備足夠之損失吸收能力。FSB 爰遵 G20 領袖於 2013 年聖彼得堡高峰會要求，經諮詢巴塞爾銀行監理委員會 (BCBS) 意見後，於 2015 年 11 月 9 日發布 G-SIBs 進行清理時損失吸收及資本重建能力之原則，及依國際上一致就 G-SIBs 總損失吸收能力認可之標準，來執行這

些原則之條款清單(條款清單須與前揭原則配合研讀)。該文件所列原則及條款清單對 G-SIBs 建立了新國際標準，FSB 將監督該標準之實施，並於 2019 年底前依據實施情形進行審查。

#### 1. 最低外部TLAC要求(Minimum External TLAC Requirement, **Minimum TLAC**)

依該文件條款清單，G-SIBs除了須符合Basel III所定最低法定資本要求外，另須符合最低外部TLAC要求。Minimum TLAC 適用於每一G-SIB下之所有受清理機構，視清理策略之不同，受清理機構有可能是母公司、中間或最終控股公司、或營運子公司。

自2019年1月1日起，G-SIBs最低外部TLAC至少須達其加權風險性資產(RWAs)之16%，且2022年1月1日起，至少須達RWAs之18%。前開要求並不包含任何適用於Basel III之法定資本緩衝，即除了Minimum TLAC外，法定資本緩衝亦須符合要求。此外，自2019年1月1日起，Minimum TLAC至少並須達Basel III槓桿比率分母項之6%，2022年1月1日起，則須達到6.75%。

#### 2. 內部TLAC (Internal TLAC)

內部 TLAC 之主要目的，係對受清理集團於母國管轄權外，透過確保集團內損失吸收與資本重建能得到適當分配，以促進母國與地主國主管機關間之合作，並使跨境清理策略能有效執行。

內部 TLAC 係受清理集團對其重要子集團承諾之損失吸收能力。被視為適用內部 TALC 要求之重要子集團，至少須符合下列條件之一：(i)擁有超過 G-SIB 集團合併加權風險性資產之 5%;(ii)創造超過 G-SIB 集團合計營業收入之 5%;(iii)擁有槓桿暴險總額合計數超過 G-SIB 集團合併槓桿暴險總額之 5%;或(iv)被 CMG 認定是執行公司關鍵功能(critical financial functions)之重要子集團。

個別重要子集團之內部 TLAC 須維持在地主國主管機關計算之最低外部 TLAC 要求之 75%~90%，惟該範圍內實際最低內部 TLAC 要求，應由重要子集團之地主國主管機關與其受清理集團之母國主管機關協商決定。

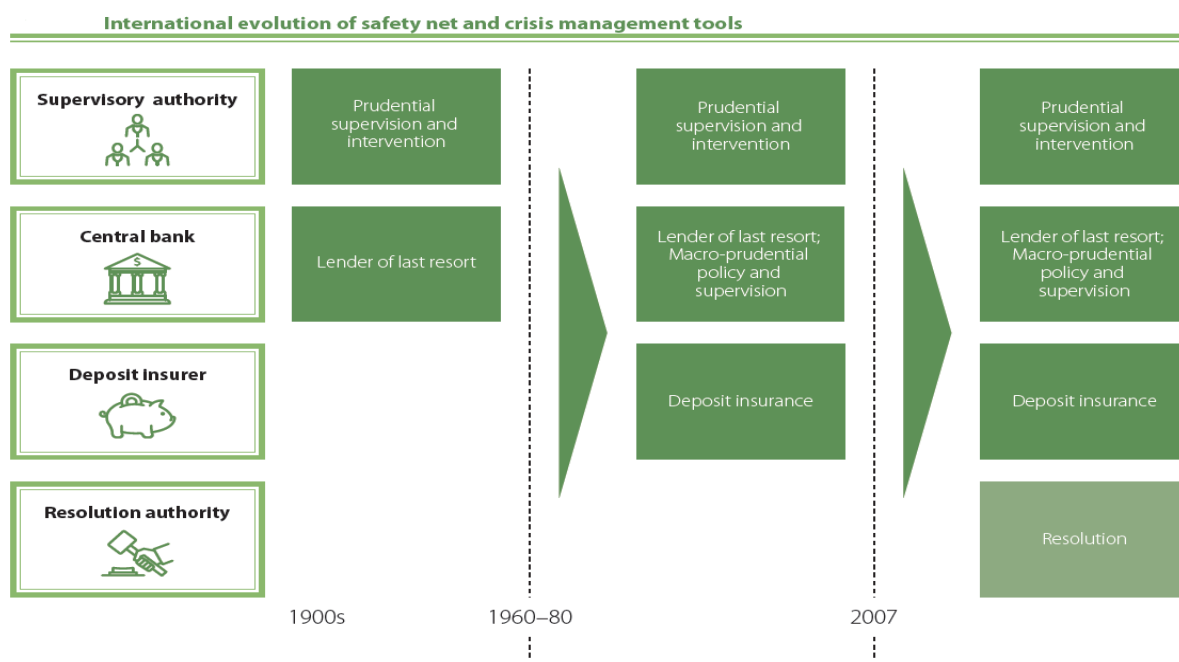
## 二、主要國家制定清理機制情形

- (一)美國：早在金融穩定委員會發布 *Key Attributes* 文件前，於 2010 年 7 月公布陶德-法蘭克華爾街改革與消費者保護法(Dodd - Frank Wall Street Reform and Consumer Protection Act)中，訂定清理計畫，規定經認定適用該法之金融機構須事先提出清理計畫(第一章)；並於第二章有序清理機制中，授予美國聯邦存款保險公司(FDIC)擔任美國系統性重要金融機構清理人之權能，並賦予 FDIC 建立有序清理退場相關策略與配套制度之權限。
- (二)英國：依據 2009 年銀行法設立清理機制，再於 2015 年 1 月因應歐盟執委會 2014 年 4 月發布銀行復原及清理指令(Bank Recovery and Resolution Directive, BRRD)要求，完成 BRRD 國內立法。
- (三)新加坡：新加坡金融管理局(MAS) 於 2015 年 6 月發布金融機構清理機制強化建議之諮詢文件，該文件並將 *Key Attributes* 納入考量。目前 MAS 為擴大清理權限，刻正進行清理機制改革中。
- (四)香港：2016 年 6 月 30 日制定金融機構(處置機制)條例(Financial Institutions (Resolution) Ordinance，下稱 FIRO)，該條例主要條文係於 2017 年 7 月 7 日生效。FIRO 之制定係為符合 *Key Attributes* 文件所定之國際清理規範。

### 三、金融安全網納入清理機制為國際趨勢

1900 年代初期，金融安全網係由監理機關審慎監理及中央銀行最後融通機制所組成；1960 年~1980 年間，金融安全網除了前揭二者外，存款保險制度亦為其中一環；自 2007 年起迄今，金融安全網之國際發展，已將清理機關清理機制納入，因此整體金融安全網係由監理機關審慎監理、中央銀行最後融通、存款保險機構存保制度及清理機關清理機制所構成，俾達維持金融穩定之目標。

### New financial safety net framework



### 四、香港之清理機制

香港 2016 年 6 月立法通過金融機構(處置機制)條例，並於去年 7 月 7 日生效，賦予清理機關具有新的法定責任及權力，一旦銀行經營不善而面臨倒閉危機時，能以有序方式進行清理，是目前亞洲地區能落實符合國際標準之少數

地區之一。

## 1. 清理機關

依該條例規定，金融管理局、保險監管局及證監會分別為銀行業、保險業及證券期貨業之清理機關，金融管理局並被指定為在香港境內跨業別集團金融機構之主導清理機關。

清理機關在執行或考慮執行該條例下之職能時，須顧及以下目標：

- (1) 促進並力求維持香港金融體系的穩定及有效運作，包括持續執行關鍵金融服務；
- (2) 力求保障受涵蓋金融機構之存款或保險單，其保障程度不低於假若該機構清理該等存款或保險單於清理保障計畫（under a protective scheme on a winding up of the FI）下所受保障之程度；
- (3) 力求保障受涵蓋金融機構之客戶資產，其保障程度不低於假若該機構清理該等資產會受保障之程度；
- (4) 在不抵觸前述(1)、(2)及(3)段之情況下，力求控制清理所須成本，從而保障公眾資金。

金融管理局於 2017 年 4 月 1 日設立獨立於銀行監理部門之清理處 (Resolution Office)，該處工作重點是制定適用於銀行業之清理政策標準；對個別銀行採行清理規劃(如：明定清理策略、評估清理計畫之可行性、與銀行合作消除妨礙有序清理之障礙)；及強化執行有序清理之能力。由該處處長直接對金融管理局總裁負責。

## 2. 涵蓋範圍

就銀行業而言，係指於香港成立之認可機構(銀行、有限牌照銀行、及收受存款機構)；於香港以外成立之認可機構；及依「支付系統及儲值支

付工具條例」(Payment Systems and Stored Value Facilities Ordinance) 獲金融管理局指定辦理結算及清算系統之清算機構及系統營運者。

### 3. 預備階段可行使之權力(Preparing for Resolution)

為使清理機關能夠進行所須之清理規劃工作，該條例賦予其一系列清理程序前可行使之權力，包括收集資料之權力。

前揭清理規劃工作，係指清理機關可不時地對受涵蓋金融機構制定清理策略，以確保能以有序方式清理該機構或其控股公司。因此，清理機關須擬具一個或多個清理計畫，或者採納一個或多個非香港所擬清理計畫之全部或部分。

清理機關亦可不時地對受涵蓋金融機構進行清理可行性評估，以評定若要有有效清理該機構或其控股公司，是否會有障礙，以及若有的話，該等障礙將會有多大。若識別到有重大障礙時，清理機關可送達書面通知，指示該機構或其控股公司，於書面通知所定期限內，就其組織結構(含集團結構)、營運(含集團內部之依賴)、資產、權利或負債，採取符合書面通知中，清理機關認為為排除這些障礙或降低其影響，所應採取之措施。

此外清理機關可就受涵蓋金融機構或其集團公司訂定損失吸收能力規定。金融管理局業於本(2018)年 1 月 17 日將所制訂之銀行業損失吸收能力規定草案，展開為期兩個月之意見徵詢，並於同年 10 月 19 日將“Financial Institutions (Resolution) (Loss-absorbing Capacity Requirements – Banking Sector) Rules”刊登公報，刊登同日並將清理規劃—損失吸收能力規定作業規範(Code of Practice Chapter on Resolution Planning—LAC requirements)草案進行意見諮詢至 12 月 3 日止。

### 4. 啟動清理之條件

清理機關必須確認下列三項條件均已符合，才可對某受涵蓋金融機構啟動清理程序。條件一：該金融機構已不再能持續經營，或相當可能不再能持續經營；條件二：無合理可能性出現於清理機制以外、屬於私領域範疇之措施，能使得該金融機構在合理期間內，恢復可持續經營；條件三：(a) 該金融機構不再能持續經營，對香港金融體系之穩定及有效運作構成風險（包括對持續執行關鍵金融服務構成風險）及(b) 實行清理可避免或減低該等風險。

## 5. 進行清理可採行之穩定措施

穩定措施係清理機關對瀕臨倒閉而被視為可能造成系統性影響之金融機構所採取之工具，條例所提出之穩定措施計有五項：(1)將部分或全部業務轉讓予有意願之私部門買家；(2) 將部分或全部業務轉讓予政府全資或部分擁有之過渡機構；(3)將資產及負債轉讓予政府全資或部分擁有之資產管理公司；(4)對負債進行法定內部財務重整(即將某些債務減計或轉換為股份以進行資本重建)；及(5)轉讓予暫時公有公司。清理機關可選擇對受涵蓋金融機構於某一時間施行一項穩定措施，或同時施行多於一項之穩定措施，或連續施行二項或多於二項之穩定措施。

## 6. 跨境清理規劃

截至 2015 年 12 月，金融穩定委員會指定之 30 家 G-SIB 及 9 家 G-SII 中，分別有 29 家及 8 家在香港設有營運據點。該條例讓清理機關透過確認 (recognize)及/或支援(support)措施，使海外清理計畫得以落實。清理機關可確認境外清理行動之全部或部分，使該行動於香港產生之法律效力，大致相等於該行動若依香港法律和授權作出便會產生之法律效力。另清理機關若接獲境外清理行動之通知，清理機關認為支援該行動係與本身依條例行

使權力，所能達成清理目標相符時，則可行使該支援權力。

金融管理局對亞太地區總部設於香港之 G-SIBs 主導區域性清理規劃 (包括每年安排亞洲區 CMG 會議)，並經由 12 個 CMG 參予 G-SIBs 跨境清理規劃，另對當地註冊設立之金融機構，分階段由 D-SIBs 開始，進行雙方清理規劃。

儘管由母國主管機關主導 G-SIBs 清理規劃，並透過 CMGs 與地主國主管機關協調合作，地主國主管機關仍可：(1)藉由參予 CMG 會議，獲得區域性管理階層保證，保證母國對整體銀行集團所為之清理計畫係與地主國清理目標一致；(2)支持 CMG 小組工作，提供地主國對銀行清理規劃之資訊或分析資料，並提供任何有關當地特殊差異性之看法，以作為須納入清理規劃一部分之考量；(3)對銀行集團之全球性清理計畫，確認於當地能獨立執行。

## 參、心得與建議

### 一、研議強化我國金融安全網之可行性

將清理機制納入金融安全網是國際發展趨勢，其目標係對萬一發生倒閉而可能影響金融穩定之金融機構能以有序方式進行清理，並由該機構股東及部分債權人承擔其發生之損失，避免動用公眾資金彌補虧損。我國現行雖已實施立即糾正措施，並採行與國際同步之監理措施，以提升金融韌性(financial resilience)，然若金融機構資產不足清償其負債時，其虧損仍將以公眾資金進行賠付，與清理機制之目標不同。鑒於我國與香港、新加坡同屬亞洲金融中心，當鄰近國家或地區先後將清理機制納入金融安全網之一環時，建議研議強化我國金融安全網之可行性。詳細說明如下：



### (一)我國近三十年來金融危機之處理發展

1. 建立存款保險制度：民國 74 年初爆發台北十信、國泰信託投資公司、亞洲信託投資公司、華僑信託投資公司等存款人擠兌事件，危及金融穩定與支付系統運作，促使政府加速於 74 年 9 月成立存款保險公司。目的在保障存款人權益，讓問題金融機構順利退出市場，以維護金融穩定，其與「最後融通者」中央銀行及「審慎監理」前財政部，形成金融安全網。
2. 改採自由投保為強制投保：民國 84 年 7 月爆發彰化四信舞弊案，接續於短短兩個月內，10 家農會並經歷了擠兌噩夢，當時存款保險制度採自由投保方式<sup>2</sup>，對於未參加存款保險之金融機構，由政府指定其他金融機構予以概括承受或合併，或透過政策性加入存保而暫時平息風暴。民國 88 年修正存款保險條例，改採全面投保制度，將 30 餘家未符合承保資格之基層金融機構納入存保制度，並賦予存保公司處理問題金融機構任務。
3. 成立金融重建基金：為使 56 家經營不善之金融機構平和退出市場以消弭金融風暴於無形，參酌美、日、韓等國以公共資金挹注方式，於一定期間內適度實施全額保障存款人權益及彌補問題機構財務缺口等機制，90 年 6 月 27 日通過「行政院金融重建基金設置及管理條例」，並於 7 月 9 日公布施行(為期四年，於 94 年 7 月 10 日屆期)。
4. 限期命銀行補足資本：96 年 3 月 21 日修正銀行法，增訂銀行虧損逾資本三分之一者，主管機關應於三個月內，限期命其補足資本，逾期未經補足者，應派員接管或勒令停業規定，俾免發生銀行虧損持續惡化，讓社會付出極大成本，損及納稅人權益。

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<sup>2</sup>民國 74 年 9 月存款保險公司成立時，我國金融體系以公營銀行為主，其經營已受到嚴格管理，爰立法採取自由投保方式。為因應金融自由化與國際化，民國 79 年開放民營銀行設立，國內銀行大多為公營情形始有所改變。

5. 實施立即糾正措施：參酌美國聯邦存款保險法第 38 條立法例，建立以銀行資本適足率為監理衡量與退出市場機制之標準，於 97 年 12 月 30 日修正銀行法，規定主管機關應依銀行資本不足、資本顯著不足及資本嚴重不足等不同資本等級，採取不同之限制措施，俾銀行於資本適足率或淨值有惡化癥兆出現時，能適時且儘速採行限制與補救措施，維護銀行之安全與穩健經營。

## (二) 提升金融韌性之主要措施

銀行體系追求銀行經營之韌性，我國除了要求銀行對資產負債表表內及表外之授信資產應予核實評估，提足備抵呆帳及保證責任準備外，並與國際規範同步採行相關重要措施：(1) 自 102 年起逐年提高資本適足比率之最低法定要求，至 108 年起普通股權益比率、第一類資本比率及資本適足率分別須達 7%、8.5% 及 10.5%；(2) 規定槓桿比率(第一類資本/暴險總額)不得低於 3%，並自 107 年起正式實施；及(3) 自 104 年起導入實施流動性覆蓋比率(高品質流動性資產/30 天內淨現金流出金額)，並自 108 年起不得低於 100%。

(三) 全球金融危機期間，歐洲多國及美國經歷了無預期及嚴峻之銀行危機，亞洲地區雖然受挫較少，但在 1990 年代後期卻也經歷了亞洲之金融風暴。這些危機正提醒我們，儘管各國已建立完善之監管架構以確保金融機構有足夠能力承受衝擊，但任何獨特或系統性之衝擊，終將使金融機構之持續經營受到損害。

以美國為例，美國金融安全網早已建立存款保險制度，1991 年並已實施立即糾正措施，2007 年全球金融風暴期間，這些監管架構仍無法倖免發生貝爾斯登(Bear Stearns)、雷曼兄弟(Lehman Brothers)、美國國際集團

(AIG)、房利美(Fannie Mae)和房地美(Freddie Mac)等危機事件。因此，美國於 2010 年 7 月公布之陶德-法蘭克法中，規定金融機構須事先提出清理計畫，此清理計畫即金融機構之生前契約，於危機發生前即明定當其陷入危機時，如何進行有序清理而退場。

另其他主要先進國家或地區亦紛紛將清理機制納入其金融安全網之一環，並要求系統性重要銀行之清理計畫，應具備有足夠之損失吸收能力<sup>3</sup>，俾由股東及部分債權人承擔其所發生之損失，避免動用公眾資金以彌補其虧損。

(四)綜上，我國現行雖就銀行虧損逾資本三分之一，應限期命其補足資本，並已實施立即糾正措施，當銀行資本等級列入嚴重不足，主管機關應於 90 日內派員接管，同時亦採行提升金融韌性之相關措施，然若其資產不足清償其負債時，其虧損仍將以公眾資金（如：金融業特別準備金）進行賠付，與清理機制係以避免納稅人遭受損失，並透過內部財務重整使股東及部分債權人能夠承擔損失之目標不同。鑒於我國與鄰近之香港、新加坡同屬亞洲金融中心，當渠等先後將清理機制納入金融安全網之一環時，建議持續強化我國金融安全網之可行性。

## 二、與母國就清理規劃進行跨國合作

依金融穩定委員會 2016 年指定之 30 家 G-SIBs 名單中(詳附錄四)，我國本地銀行均非其指定之 G-SIB，但 30 家 G-SIBs 名單中，有 20 家在我國設有營業據點，其中有 3 家(Citigroup、HSBC、Standard Chartered)係設立子(分)行營業。除此之外，另有 8 家外國銀行於我國設有分行。

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<sup>3</sup>除了在持續經營之基礎上吸收損失(即最低資本要求)外，還須有無法持續經營時之吸收損失能力。

依 *Key Attribute* 規範，跨境金融機構之有效清理，須賴母國與地主國之間清理機關之緊密合作，而這種合作不單指執行清理程序本身，亦適用於事前整個清理規劃階段，以及最低吸收損失能力規定之制定。我國雖藉由參予監理官會議(Supervisory College)與外國銀行之母國監理機關進行跨國合作與資訊分享，但監理官會議之目的，並非討論跨境清理規劃之議題，且亦有其侷限性，例如：不能作成正式決定<sup>4</sup>、對危機處境瞭解不充分、各國分行所呈現之問題亦有其特殊性。

有鑑於香港金融管理局於去年 4 月 1 日設立獨立於銀行監理部門之清理處，已開始就 HSBC 主導區域性清理規劃，並安排於每年監理官會議後，接續舉行亞洲 CMG 會議<sup>5</sup>。另泰國央行本年辦理盤谷銀行監理官會議時，亦開始就銀行清理規劃進行討論。因此，與銀行之母國就其清理規劃加強跨國合作，例如：危機發生前及發生時，資訊共享之程序；清理可行性評估時之協調流程等，繼續加強合作均有其必要性。

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<sup>4</sup>監理官會議僅可共同提供建議，但不能強制執行。

<sup>5</sup>HSBC 於我國設有子(分)行，爰我國亦獲邀出席 CMG 會議。

## APEC Financial Regulators Training Initiative Seminar on Financial Crisis Management: How to Detect the Crisis

26-29 November 2018, Bali, Indonesia

Hosted by Bank Indonesia

Hour	Monday	Tuesday	Wednesday	Thursday	Friday
9:00 to 10:30	Participant Registrations (8:30 – 9:00)  Welcome Remarks <b>Arlyana Abubakar, BI</b> Opening Remarks <b>Sue Jeffrey, ADB</b> (9:00 – 9:15)  Participant Introductions (9:15 – 9:45)  Keynote Speech: Digital finance and financial stability: challenges for the future, how to communicate them (9:45 – 10:30) <b>Arlyana Abubakar - Bank                      Indonesia</b>	<b>(8:30 – 10:30)</b> 4. Case study – presentations on case study of Royal Bank of Scotland <b>Aziz Durrani - SEACEN</b>	8. Crisis management infrastructure & mitigation tools <b>Aziz Durrani - SEACEN</b>	12. Bank Resolution Regimes (cont'd) <b>Ang Li - HKMA</b>	FREE TIME with Social Activity for participants & presenters
	Break & Photo Session	Break	Break	Break	
11:00 to 12:30	1. Early warning exercise at the Bank of Japan <b>Mitsuhiro Osada –                      Bank of Japan</b>	5. Macro stress testing at the Bank of Japan <b>Mitsuhiro Osada – Bank of                      Japan</b> Methodology Surveillance & Crisis Identification in Indonesia <b>Rozidyanti - Bank                      Indonesia</b>	9. Safety nets <b>Arifa Ala - BSP</b>	13. Round table discussions <b>Presenters &amp;                      Participants</b>	
	LUNCH	LUNCH	LUNCH	LUNCH	
1:30 to 3:00	2. Case study - causes of the collapse of the Royal Bank of Scotland <b>Aziz Durrani - SEACEN</b>	6. Systemic risk assessment & monitoring <b>Bodin Civilize - BoT</b>	10. Central bank instruments & policies for dealing with the crisis <b>Arifa Ala - BSP</b>	14. Round table discussions <b>Presenters &amp;                      Participants</b>	
	Break	Break	Break	Break	
3:15 to 4:30	3. Case study - causes of the collapse of the Royal Bank of Scotland (cont'd.) <b>Aziz Durrani - SEACEN</b>	7. Case study – Mapping Thailand's financial landscape: a perspective through balance sheet linkages & contagion <b>Bodin Civilize - BoT</b>	11. Bank Resolution Regimes <b>Ang Li - HKMA</b>	Closing Remarks & Certificate Presentation (3.30pm - 4.30pm)	



# Crisis Management Infrastructure and Mitigation Tools

**Aziz Durrani**

Senior Financial Sector Specialist

Financial Stability, Supervision and Payments & Settlement  
Systems

## Session Objectives

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1. Importance of Contingency Planning
2. Developing Effective Crisis Management Contingency Plans
3. Testing, Activating and Maintaining Contingency Plans
4. Overview of Recovery and Resolution Planning
5. Contingency Planning Challenges in Asia-Pacific

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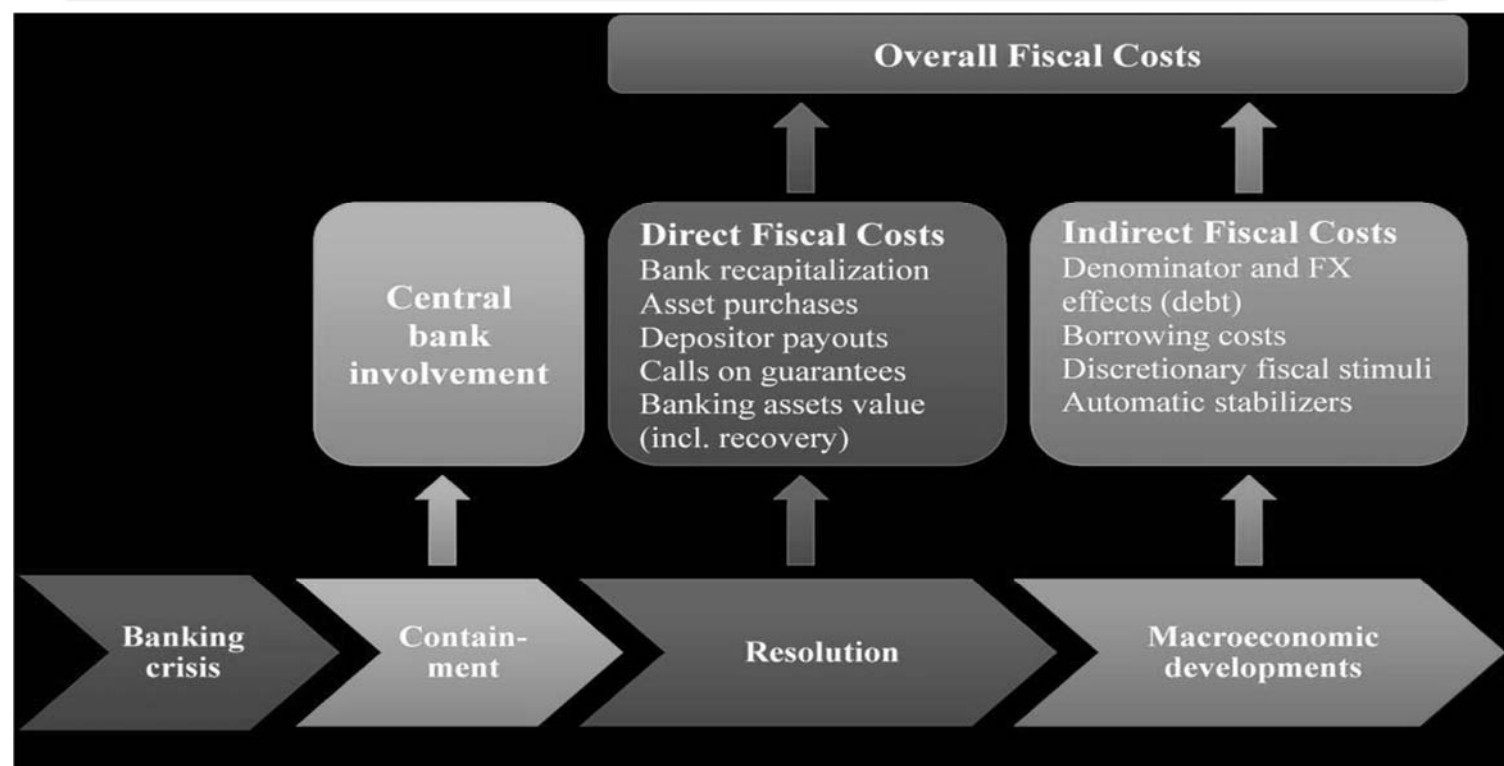
## Importance of Contingency Planning

## Systemic Banking Crises

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- Since 2007 there have been 25 new systemic and borderline systemic banking crises, mostly in advanced economies.
- The cost of government intervention in Iceland and Ireland, for example, amounted to more than **40% of GDP**, and public debt increased by **more than 70% of GDP in 5 years** (Laeven and Valencia, IMF, 2013).
- The most recent wave of crises post 2007 saw a **median increase in public debt of more than 24% of GDP**, with the increase in some countries being more than double this amount (Deutsche Bank, 2013)

## Costs of Banking Crises



## Crisis Management

- Relevant authorities analyze, discuss and develop contingency measures or other remedies that may be applied during a crisis. These include policies, procedures or arrangements that are intended to reduce the adverse impacts of a financial crisis.
- A comprehensive plan is developed, tested and disseminated to relevant authorities.
- Crisis resolution takes place through the application of the crisis management measures set out in the plan, contextualized to the nature of the crisis.



## Basel Committee on Banking Supervision (BCBS)

“Core Principles on Effective Supervision” (Basel Core Principles or BCP):

- Issued 1997, revised 2006 and 2012
- 29 minimum standards for sound prudential regulation and supervision of banks and banking systems
- **Latest revisions reflect crisis lessons learned**
- Compliance assessed by IMF during their Financial Sector Assessment Program (FSAP)
- BCP used by countries in self-assessments

## BCBS': Core Principles for Effective Supervision Revised 2012

Excerpt from press release accompanying issuance of 2012 BCP states that the revisions reflect an:

**“...increasing focus on effective crisis management, recovery and resolution measures in reducing both the probability and impact of a bank failure.”**

Source: BCBS Press Release 14 September 2012, available at [www.bis.org](http://www.bis.org)

## 2012 BCP

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“Banks will, from time to time, run into difficulties, and to minimize the adverse impact both on the troubled bank and on the banking and financial sectors as a whole, effective crisis preparation and managements, and orderly resolution frameworks and measures are required.”

Source: 2012 BCP, p. 6, available at [www.bis.org](http://www.bis.org)

## 2012 BCP

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“It should not be an objective of banking supervision to prevent bank failures. However, supervision should aim to reduce the probability and impact of a bank failure, including by working with resolution authorities. So that when failure occurs, it is in an orderly manner.”

Source: 2012 BCP, p. 4, available at [www.bis.org](http://www.bis.org)

## IMF/World Bank FSAP Findings on Crisis Management and Resolution Preparedness

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- Insufficient crisis management planning
- Insufficient specification of roles of national authorities in a crisis
- Insufficient legal powers to take various emergency actions in a crisis
- Insufficient information sharing arrangements with relevant authorities both domestically and cross-border
- Insufficient or nonexistent arrangements for providing emergency liquidity to banks
- Insufficient specification of failing/failed bank resolution strategies/options
- Not conducting crisis simulation exercises

Source: Zamorski, Michael and Lim, Vincent Choon-Seng, "Financial Stability Insights from Recent IMF/World Bank FSAPs," *SEACEN Financial Stability Journal*, November, 2013. Based on analysis of 22 FSAP Assessments conducted during 2012 and 2013.

## Impediments to Effective Crisis Management in the U.S./Eurozone 2007-09

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- Major differences in national resolution regimes
- Absence of mutual recognition and agreements
- Lack of planning for handling stress and resolution
- Home-host coordination and coordination among domestic authorities was, in many cases, weak
- Lack of legal gateways and protocols for cross border information-sharing

## Banking Crisis Management

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- Banking crises are difficult to predict and whilst they are not exactly alike, they are frequently preceded by periods of increasingly risky lending practices.
- Crises “knock-on effects” and spillovers can also be difficult to predict.
- “Crisis management is messy, time-consuming and costly”\*.
- Last major Asia Pacific banking crisis in 1997-98 was characterized by rapid onset and contagion effects.

\*April 15, 2010 Speech by Mr. Stefan Ingves, Governor of the Sveriges Riksbank and Chairman of the Basel Committee on Banking Supervision.

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## Developing Effective Crisis Management Contingency Plans

## Crisis Management and Resolution

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- **Good and thorough preparation** is the key to avoiding ad hoc decision-making in the midst of a crisis, which may be costly, have adverse and unintended consequences and spillovers.
- The **roles and responsibilities** of national authorities involved in crisis management and resolution should be understood beforehand – sometimes these arrangements are set forth in Memoranda of Understanding (MOU) to avoid confusion later.
- MOUs cannot guarantee trust or effective working relationships and timely information sharing among relevant parties and decision makers. So MOUs need to be reinforced by regular supervisory colleges / discussions and meetings.

## Crisis Contingency Planning

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- Helps avoid the mindset that “everything is fine, it can’t happen here” – multiple threats exist, for example:
  - Financial crises that spread to or emanate from banking system, the shadow banking system or cross-border linkages
  - Natural disasters
  - Terrorist attacks
  - Pandemics
- Avoid potentially incorrect and/or costly ad hoc decisions by considering:
  - A range of possible adverse scenarios
  - Possible second order impacts
  - Unintended consequences
  - Policy issues

## Crisis Contingency Planning

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- Ensures decision makers have necessary authority and powers
- Thorough planning and preparation promotes quicker and easier action should a crisis materialize
- Staff are better prepared to act on an informed and planned basis versus reactively

## Financial Stability Forum Principles for Cross-Border Co-operation

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- While financial crisis management remains a broadly domestic concern, the growing interactions between national financial systems require international co-operation by authorities.
- Home authorities should lead work with the key host authorities to look at the practical barriers to achieving co-ordinated action in the event of a financial crisis involving specific firms, for every cross-border bank identified by the FSF as having or going to have a core supervisory college.

# Crisis Contingency Planning: Include Low Probability, High Impact Events

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- Avoid failing to adequately plan for crises due to “normalcy bias” or failing to consider the possibility that low probability, high impact events can occur
- Excerpts from Federal Open Market Committee’s August 2007 minutes:

“My forecast for the most likely outcome for output over the next few years is.....growth a little below potential for a few quarters, held down by the housing correction, and the unemployment rate rising a little further.”

- Donald Kohn, Vice Chairman of the Federal Reserve Board of Governors

# Elements to Be Covered in an Effective Crisis Management Contingency Plan

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- Triggering events that cause the plan to be activated
- Coverage: Banks...and? Other financial intermediaries? Financial infrastructure (e.g., payment systems)
- Crisis decision making roles of various national authorities
- Legal powers to take emergency actions
- Information sharing protocols with relevant authorities, both domestic and foreign

## Elements to Be Covered in an Effective Crisis Management Contingency Plan

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- Uninterrupted secure communications capabilities
- Providing emergency liquidity assistance to banks
- Failing/failed bank resolution strategies/options
- Disseminating public information and dealing with the media
- Crisis simulation exercises
- Plan maintenance

## Crisis Management Powers

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Examples of powers that may be needed to avert or deal with a banking crisis:

- Removal of bank officers and directors
- Power to appoint receiver
- Forcing changes in management officials and /or board of directors
- Set-up and operate a bridge bank
- Terminate contracts
- Sell / merge parts or all of the bank



## Crisis Management Powers

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Examples of powers that may be needed to avert or deal with a banking crisis:

- Termination of bank's deposit insurance
- Ability to share information with other relevant domestic authorities
- Ability to share information with relevant foreign authorities
- Provide emergency liquidity facilities
- "Cross guarantee" provisions whereby bank failure costs are able to be recouped by assessing commonly controlled banks for financial losses

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## Testing, Activating and Maintaining Contingency Plans

## Crisis Simulations

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- Conducted at reasonable intervals – at least every two years?
- Include actual decision-makers in the simulation to increase realism and familiarize them with the crisis management plan
- Include the actual members of the crisis team
- Simulations can identify CMP enhancements/modifications

## Crisis Simulations

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- Test multiple scenarios that pose different challenges, such as unforeseen cross-border complications; include plausible but severe scenarios
- Conduct simulations under physical arrangements similar to those in a real crisis
- Discuss simulation outcomes and experiences with the participants/  
Determine gaps and improvement opportunities
- Based on the simulation outcomes, adjust the crisis plan and handbook where necessary

## Activating the Crisis Contingency Plan

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- The determination and recognition of when a bank is or is expected to be in serious financial difficulty should be made early
- The intervention and resolution process should be initiated promptly and on the basis of criteria clearly defined in law or regulation, and should be well understood by banks and their stakeholders
- Because a bank's financial performance and capital position can deteriorate quickly, trigger mechanisms based on single measures such as capital insolvency, illiquidity or poor quality of assets may not be sufficient
- Effective trigger mechanisms for early intervention or corrective action should include a variety of relevant indicators of both a quantitative and a qualitative nature

Source: International Association of Deposit Insurers

## Crisis Contingency Planning - Challenges

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- Senior leadership commitment and involvement
- Keeping the plan up to date is resource intensive
- Clear “ownership”/accountabilities for ongoing plan maintenance
- Plans are very detail oriented or highly technical, requiring specific skill sets to maintain
- Periodic simulation exercises are essential to ensure continued plan relevance

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# Overview of Recovery and Resolution Planning

## Characteristics of Orderly Bank Resolutions

- Public trust and confidence in the banking system is preserved
- Bank customers (primarily depositors and loan customers) of the failing/failed bank experience a “seamless” transition from the transfer of their business to the new bank
- Adverse spillover effects are minimized
- Resolution process is completed in a timely manner
- Costs of the resolution are minimized

## Key Success Factors in Orderly Bank Resolutions

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- Strong, independent organizational leadership
- Adequate powers/clear legal authority to act/legal protections – the right architecture
- Adequate resourcing and expertise
- Effective working relationships with other domestic safety net players (including timely information-sharing)
- Strong cross-border co-operation
- Ability to fund firms in resolution
- Effective, efficient and transparent deposit insurance scheme

## Resolutions Options

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- Highly dependent on the size and nature of the crisis
- Major crises need multiple resolution strategies which are developed beforehand
- Options can be developed in advance and tailored to individual failing banks' circumstances
- Develop hierarchy of desired resolutions strategies
- It is generally less costly and less disruptive to keep assets (i.e., loans) in the private sector
- Proper incentives minimize moral hazard

## Bank “Solvency” vs. “Viability”

- Solvency, from an accounting perspective, exists when a bank’s assets exceed its liabilities. Unrecognized asset impairments may mask an insolvent condition.
- Legal definitions of solvency may differ from accounting definitions and vary across jurisdictions. Banks which report positive capital, but are unable to pay liabilities as and when they fall due, may be deemed insolvent in some jurisdictions, which may be grounds for intervention and receivership.

## Bank “Solvency” vs. “Viability”

- A viable bank is in sound financial condition, is expected to remain so, and can conduct normal business.
- A bank may appear to be solvent, but not be viable, due to severe financial weaknesses.
- Non-viable banks pose “moral hazard” and may engage in unsound practices, since they have less (or nothing) to lose, and that can adversely impact sound banks.

## Moral Hazard

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A party to a transaction has an incentive to take excessive risk knowing that the impact of an adverse outcome will not be borne by them.

## Intervention Powers - Basel Core Principles

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### **BCP 8 – Supervisory Approach**

An effective system of banking supervision requires the supervisor to develop and maintain a forward-looking assessment of the risk profile of individual banks and banking groups, proportionate to their systemic importance; identify, assess and address risks emanating from banks and the banking system as a whole; ***have a framework in place for early intervention; and have plans in place, in partnership with other relevant authorities, to take action to resolve banks in an orderly manner if they become non-viable.***

## Intervention Powers - Basel Core Principles

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### BCP 11 – Corrective and Sanctioning Powers of Supervisors

The supervisor acts at ***an early stage*** to address unsafe and unsound practices or activities that could pose risks to banks or to the banking system. The supervisor has at its disposal an ***adequate range of supervisory tools to bring about timely corrective actions***. This includes the ability to revoke the banking licence or to recommend its revocation.

## 2012 BCP

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### ***Principle 10 – Supervisory Reporting***

#### ***Essential Criteria 6:***

The supervisor has the power to request and receive any relevant information from banks, as well as any entities in the wider group, irrespective of their activities, where the supervisor believes that it is material to the condition of the bank or banking group, or to the assessment of the risks of the bank or banking group **or is needed to support resolution planning**. This includes internal management information.

Source: 2012 BCP, p. 33, available at [www.bis.org](http://www.bis.org)



# Key Attributes of Effective Resolution Regimes – Financial Stability Board

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## Key Attribute 3 - Entry into Resolution

**Resolution should be initiated when a firm is no longer viable or likely to be no longer viable, and has no reasonable prospect of becoming so.**

The resolution regime should provide for timely and early entry into resolution before a firm is balance-sheet insolvent and before all equity has been fully wiped out. There should be clear standards or suitable indicators of non-viability to help guide decisions on whether firms meet the conditions for entry into resolution.

- Resolution authorities should have at their disposal a broad range of resolution powers.

Financial Stability Board, October 2014

## Prompt Corrective Action (PCA)

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A set of progressively severe regulatory corrective measures taken against banks exhibiting deteriorating financial performance or behaviors.

### Purpose:

- Reduce risk-taking by weak financial institutions
- Require prompt, and often non-discretionary, action by regulatory authorities
- Reduce the likelihood of supervisory forbearance
- Lower the cost of failed bank resolutions by requiring **early intervention** in problem financial institutions

## Resolution Powers

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- Early Intervention
- License revocation grounds
- Power to appoint receiver
- Setup a bridge bank
- Terminate contracts

## Resolution Powers

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- Termination of bank's deposit insurance.
- Allow prospective failing bank purchasers access to a bank's books and records to perform due diligence prior to submitting a bid.
- "Cross guarantee" provisions whereby bank failure costs are able to be recouped from other parts of the financial group.

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# Contingency Planning Challenges in Asia-Pacific

## Asia Pacific Context

- Asia has many financial services conglomerates operating across the region.
- Some groups are “mixed conglomerates” either owned by commercial enterprises or conducting significant non-banking business in the group.
- Some groups have systemically important banks in more than one jurisdiction.

# National Interests Drive Crisis Resolution Decisions

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**“Global banks are global in life but national in death.”**

- Former BoE Governor Mervyn King

Conglomerates’ consolidated financial position is important, but legal entities matter.

## Multinational Conglomerates

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***The inherent nature of banks that are part of multinational conglomerates***  
**“Global in life.....**

Complex group structures across borders, in multiple currencies and time zones  
BUT functions as a single entity:

- i. matrix management structures and centralised functions, legally separated with no de facto independence
- ii. through cross-guarantees and cross-default provisions

**.....but national in death”**

Localised resolution framework

- i. Established by national law, answerable to the national parliament
- ii. Absence of international legal framework
- iii. Multiplicity of regulatory actors - Conflicting motivations, incentives and priorities of home and host authorities

## Realistic Expectations of Cross-Border Co-operation

### **Arrangements need:**

**To be Formalised:** Government to government agreement. Regularly reviewed and updated.

**“Pre-nuptials”:** Effective ex-ante agreement to govern the relationship and set expectations e.g. bilateral or multilateral MOU and alignment of incentives. *Recognise that cross-border agreement is not a solution to all possible issues.*

**Trust:** Facilitate free flow of information to support analysis of information, contact details, assessment of performance and gravity of issues.

## Realistic Expectations of Cross-Border Co-operation

**Honesty:** Promote transparency, predictability and accountability in resolution to effectively support cross-border activities. Identification of walkaway points in cross-border agreements.

**Commitment and Perseverance:** Promoting convergence of principles and consolidation of resolution instruments and approaches, leadership and accountability.

**Effective Communication:** Develop a common language, understanding of the triggers for entry and exit.

**Contingency Planning:** conflict resolution mechanisms, sharing of resolvability assessments, joint simulations and war games and methodology of allocating burden/cost of resolution.

## Systemically Important Banks

- If a bank is large or provides critical services, it may be deemed “systemically important,” meaning problems at that institution could escalate or be of sufficient magnitude to affect the overall stability of the financial system.
- Resolution and recovery planning for systemically important banks is typically complex and resource intensive.

## Challenges of Cross-Border Banking

- Maintaining financial stability and managing a crisis adds to the general challenges of cross-border banking. When several jurisdictions are dealing with a cross-border banking group, jurisdictions have to cooperate and agree on:
  - Capitalization of the group
  - Liquidity management within the group
  - The problem that business lines don't neatly correspond to the legal structure
- These problems are compounded by the limited powers granted to host supervisors of foreign branches.

## Challenges of Cross-Border Banking

Other challenges requiring cooperation in cross-border banking are:

- There may be inconsistencies across jurisdictions in IRB ratings
- There may be contagion, especially if entities of a banking group are systemic in more than one jurisdiction.

A possible solution can be found in the use of supervisory colleges:

- The colleges can agree on a joint examination plan.
- They can conduct risk assessments at a group and local level.
- They can decide on joint capital and liquidity buffers for the group and each of its entities.
- They can agree on consistent model evaluation.
- They can exchange information and raise issues of emerging risks. But...

## Some Limitations of Supervisory Colleges



Supervisory colleges are NOT formal decision-making bodies – they may make joint recommendations, but they can't enforce

Colleges are insufficient for crisis situations

Foreign branches pose special problems

# Special Challenges of Foreign Branches

The branch structure poses challenges for cross-border supervision.

- First, branches don't have capital. Host supervisors are locked out of group decisions on group capital.
- Powers of host supervisors are often limited.
- Home supervisors may not agree on measures (such as lower minimum LTVs) required by host supervisors.
- There is no way to prevent liquidity or other assets flowing out of the foreign branch to the home office.
- There may be branches from other jurisdictions "outside the group," necessitating multiple negotiations with other supervisors.
- Branches may be systemic in the host country, but not in the home country, so the home supervisor doesn't sense the same degree of urgency.

# Problems of Cross-Border Crisis Management

Crisis management is challenging in a cross-border setting:

- Countries may not agree on how to share the fiscal costs from any necessary recapitalization of a bank that is active in multiple jurisdictions.
- The Nordic countries engaged in crisis management simulation in 2007 – but authorities didn't agree on measures to be taken.
- Individual jurisdictions may have laws for "ring-fencing" subsidiaries, so that capital and liquidity can't be drained out to help the group as a whole.
- In a real crisis, there is a "need for speed" and national interests tend to dominate of the interests of the group as a whole.
- "Lender-of-last resort" tends to be poorly defined.



## Summary Points

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- Prevention is the key to avoiding financial instability and crises.
- Banking crises are not isolated events – they have occurred frequently and are costly.
- Sound contingency planning is key to orderly, cost effective crisis management and resolutions.
- 2008 U.S./Eurozone Crisis lessons learned.
- Effective crisis contingency plans require on-going commitment, senior management support and testing.
- Asia Pacific has large multinational conglomerates that necessitate effective cross-border co-operation.

## Summary Points

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- Some improvements have been made after the crisis, but it is not clear if the next crisis will be handled quicker with less cost to the taxpayers or the economy as a whole.
  - In the US, there is still no formal authority given to the Fed or any other agency to use macroprudential tools other than the Countercyclical Capital Buffer. There is still no explicit authority to coordinate and oversee crisis management.
  - In Europe, the Bank Recovery and resolution Directive (BRDD), whilst comprehensive, was ignored in Italy when bailing out two of its banks in 2018.
  - Central Banks can no longer rely on cutting interest rates and quantitative easing to help if the next financial crisis emerges in the near future.

# Financial Safety Nets

APEC Financial Regulators Training Initiative  
Regional Seminar on Financial Crisis Management: How to Detect the Crisis  
26-29 November 2018

Atty. Arifa A. Ala, CPA  
Managing Director  
Financial Supervision Sub-sector III

1

## Outline

1. IADI Definition of Financial Safety Nets
2. Overview of the Philippine Financial System
  - a. Banking Institutions
  - b. Non-Bank Financial Institutions
3. Elements of Financial Safety Nets
  - a. Prudential Regulation and Supervision
  - b. Lender of Last Resort
  - c. Failure Resolution
    - Crisis Management Preparedness
    - Early Intervention and Resolution Regime
  - d. Deposit Insurance

2

# Financial Safety-Net

Financial safety-net is defined to include the functions of prudential regulation, supervision, resolution, lender of last resort and deposit insurance.

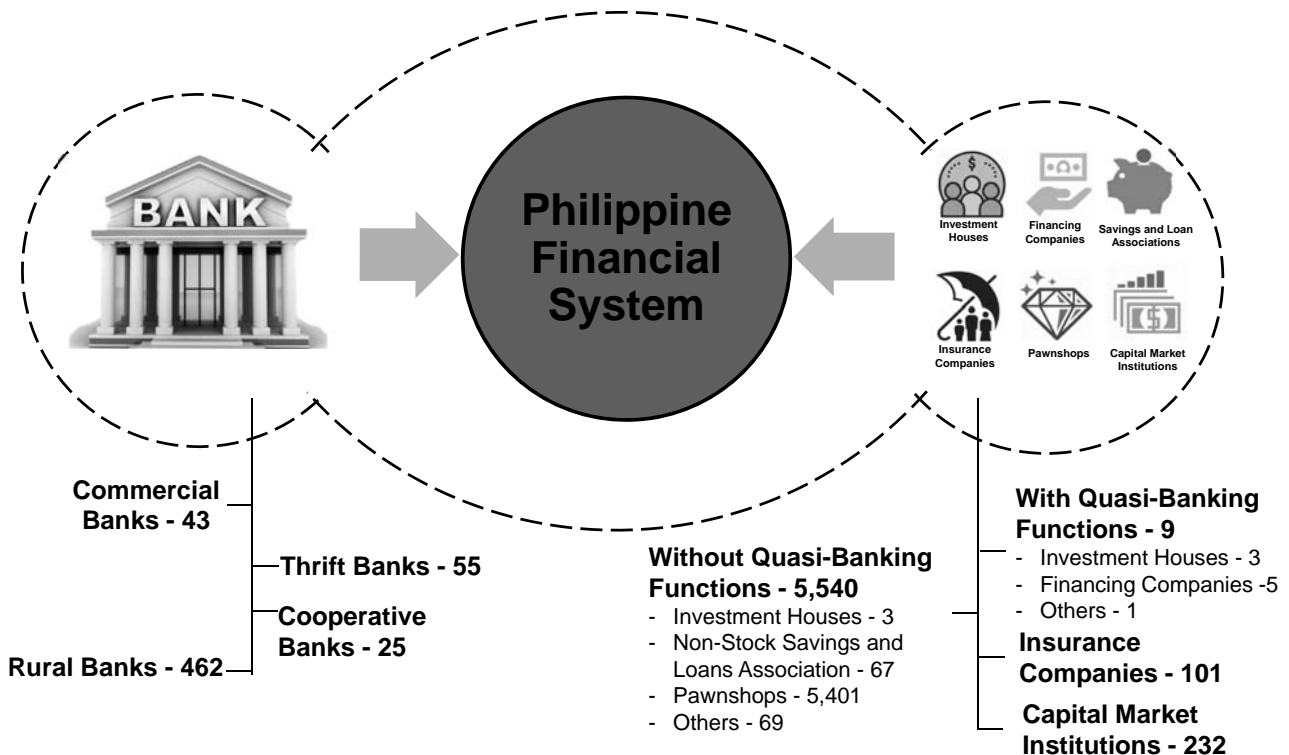
In many jurisdictions, a department of government (generally a Ministry of Finance or Treasury responsible for financial sector policy) is included in the financial safety-net

- IADI Glossary of Terms and Definitions



3

## Overview of the Philippine Financial System



# Philippine Financial Safety Net Players

## Banking Institutions



### Bangko Sentral ng Pilipinas

- Lender of Last Resort
- Liquidity Management
- Currency issue
- Financial Supervision
- Management of foreign currency reserves
- Determination of exchange rate policy

### Philippine Deposit Insurance Corporation

- Settlement of Insurance Claims
- Insurance Risk Mitigation
- Receivership and Liquidation of Closed Banks

5

# Philippine Financial Safety Net Players

## Non-Bank Financial Institutions



### Bangko Sentral ng Pilipinas

- Regulation of non-bank institutions performing quasi-banking functions



### Insurance Commission

- Regulation and supervision of insurance and pre-need industries in the Philippines

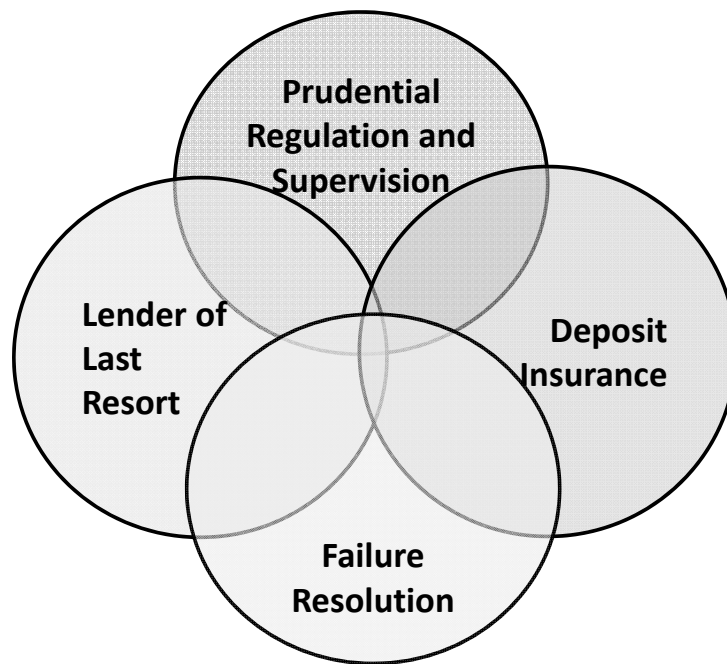


### Securities and Exchange Commission

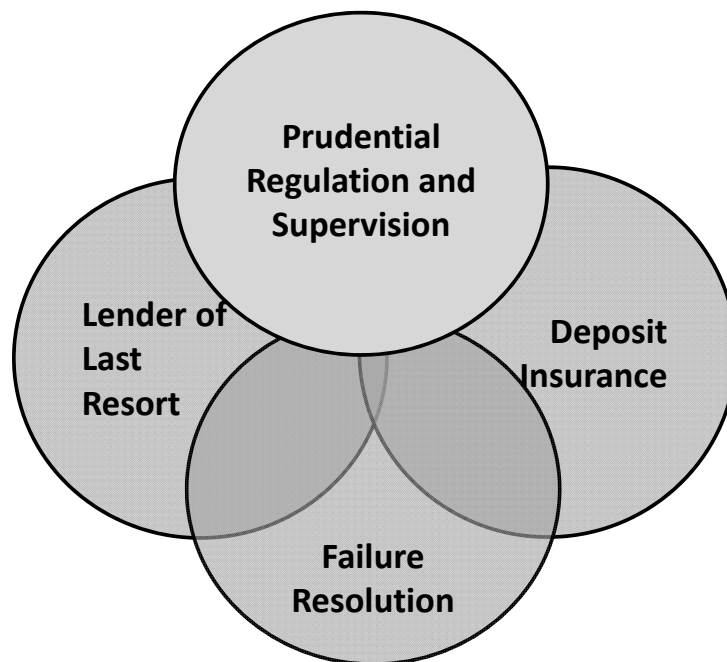
- Supervision of all registered business entities in the country
- Policymaking in capital and securities market
- Control over and approval of security registration statements
- Power to investigate violations of securities laws and impose sanctions
- Power to issue subpoenas, punish for contempt, and issue cease and desist orders

6

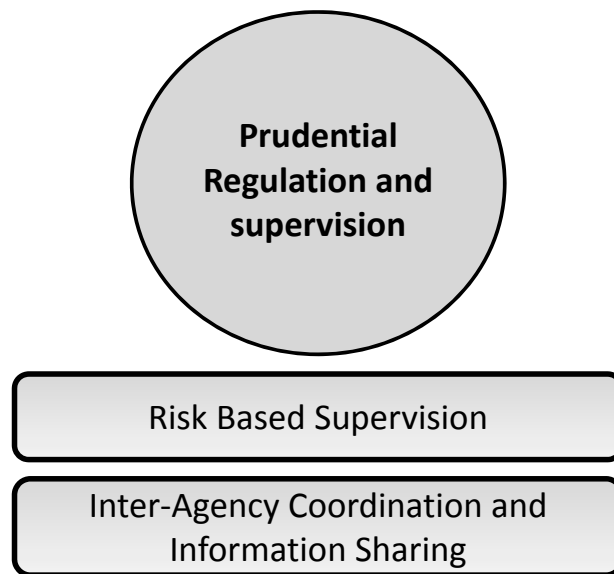
# Interrelations between Elements of Financial Safety Nets



# Interrelations between Elements of Financial Safety Nets

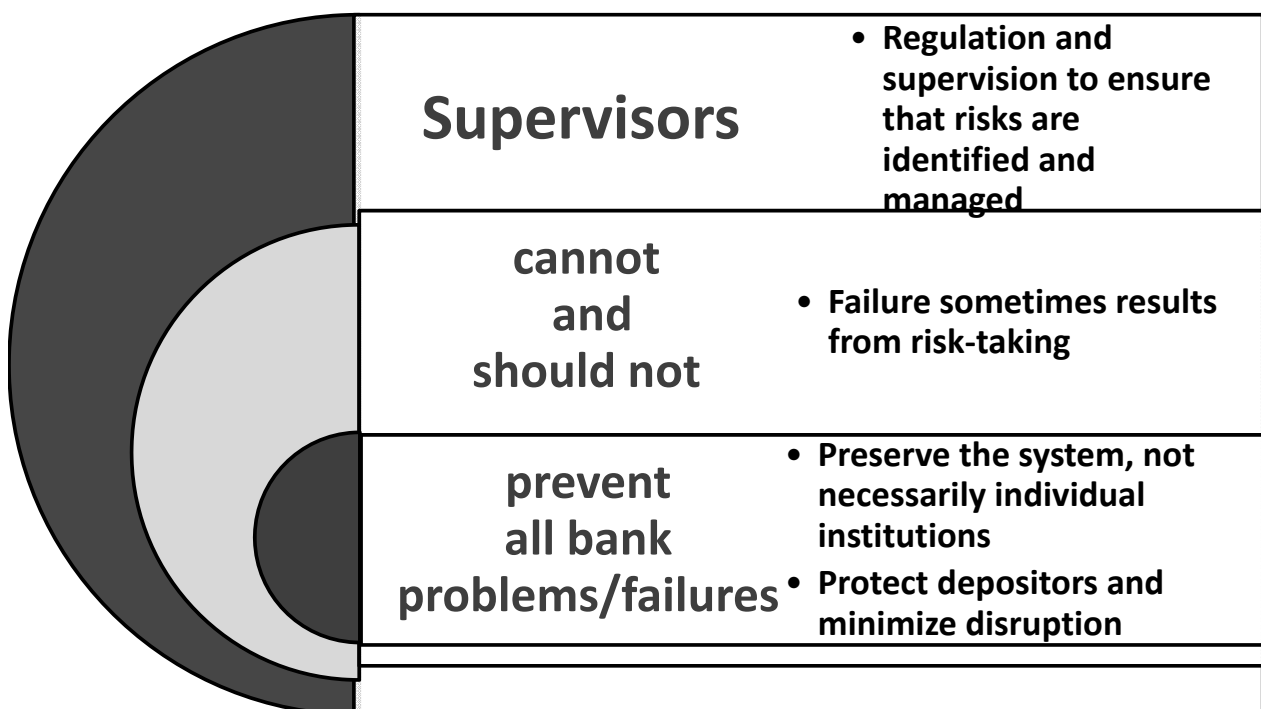


# Interrelations between Elements of Financial Safety Nets



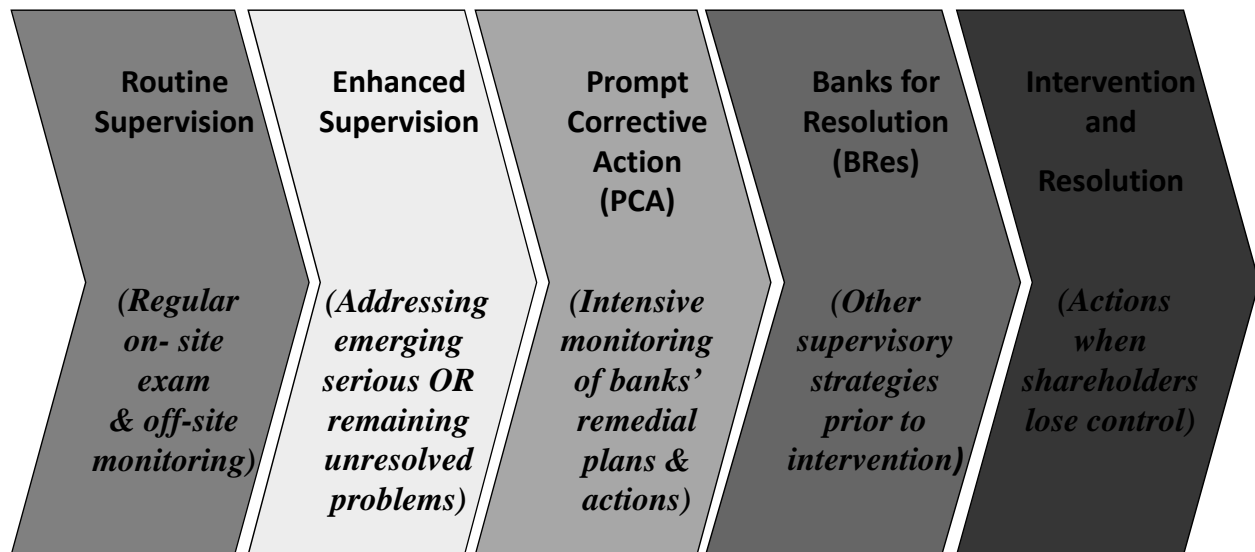
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## Things to Remember



10

# The BSP's Supervisory Continuum



†

11

## Coordination between Supervisory and Resolution Authorities

- Bank failure is seldom a sudden event
- The regulator and the Deposit Insurance Corporation should coordinate closely to pre-prepare for resolution
  - Joint on-site examinations
  - Discreet enquires about potential purchasers
  - Review legal options
  - Identify needed internal and external resources

12

# Authorities

- Bangko Sentral ng Pilipinas
- Department of Finance
- Securities and Exchange Commission
- Philippine Deposit Insurance Commission
- Insurance Commission



13

# Coordination among Regulators

## INFORMATION SHARING SCHEME

- Should allow regulators to make informed and timely decisions
- Ensure information channels will remain open
- Responsibility to protect information
- Management Information System



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# Communication Plans

## IDENTIFY

- Who are the recipients of information
- What information will be given
- When will the information be given
- How will the information be communicated
- Who will deliver the message



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## Coordination of Cross-border Crisis Management

- Regulators shall endeavor to actively participate in cooperation efforts within the region and with other foreign regulators.
  - ❖ *Bilateral discussions*
  - ❖ *Supervisory colleges*
  - ❖ *Bilateral or Multi-lateral information sharing agreements*

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# Joint Undertakings of BSP and PDIC



## Memorandum of Agreements on:

- Exchange of data and information on supervision and/or regulation of banks (2002)
- Information and reports on bank examination findings (2005)
- Modification of the Evaluation Process for Merger and Consolidation (2009)
- Bank Examination and Information Exchange (2013)

## Joint Bank Strengthening Programs

- Strengthening Program for Rural Banks
- Strengthening Program for Cooperative Banks
- Consolidation Program for Rural Banks

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# Financial Sector Forum



- **Established in 2004**
- **To harmonize supervisory standards and regulatory policies**
- **To ensure adoption of coordinated actions in addressing vulnerabilities and weaknesses in the supervised institutions**
  - **Consumer protection and education**
  - **Information exchange and dissemination**

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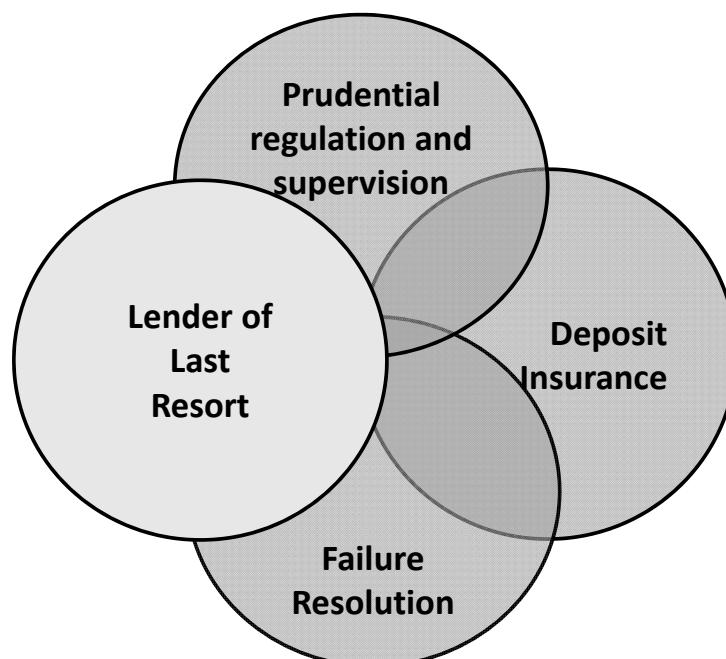
# Financial Stability Coordination Council



- Established in 2014
- To identify, manage and better understand the interconnectedness of the agencies
- To mitigate buildup of systemic risks in the financial system through information sharing

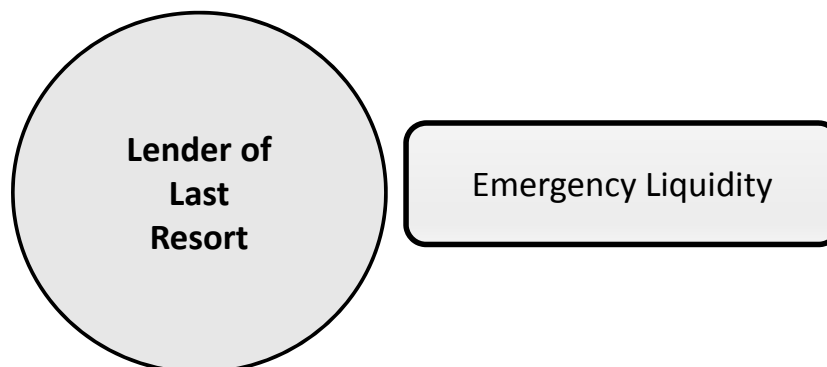
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## Interrelations between Elements of Financial Safety Nets



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# Interrelations between Elements of Financial Safety Nets



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## Open Bank Assistance



- Capital injection
  - Public funds used to purchase equity or subordinated debt
- Liquidity support
  - Central bank provides liquidity
- Soft loans
  - Government, central bank or deposit insurer provides low or no-interest loans

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# Problems With Open Bank Assistance

- Moral hazard
- Penalizes well run banks that compete with weak banks receiving financial support
- Difficult to determine the size of the hole
- Financial assistance is not enough

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## Why Open Bank Assistance Fails

- Underlying problems are not addressed
  - Poor management
  - Insider transactions
  - Deficiencies in policies, procedures and controls
  - Overhang from bad loans leaves bank with insufficient earning assets
  - Excessive overhead costs
- Depth of the financial problems was underestimated



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## **Making Assistance Work**

- Make assistance conditional on:
  - Fit and proper owners, qualified and experienced management
  - New investment by private shareholders
  - Time-bound remedial plan to address the underlying causes of the problem
  - Assistance provided in tranches as specific interim restructuring targets are met
  - Intensive monitoring

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## **Avoiding Moral Hazard**

- Public funds, in principle, should not be used to support private banks
- Possible exceptions
  - Truly systemic institutions
  - Joint public/private recapitalizations under a uniform and transparent scheme
  - When government actions such as debt restructuring or modification of contract terms cause the banking problems

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# Forbearance

- Banks are allowed to continue to operate despite failure to meet prudential standards such as:
  - Capital adequacy
  - Loan loss provisioning
  - Related parties or single exposure limits
  - Foreign exchange limits
  
- Expectation that over time the bank will recover



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## Forbearance (cont'n.)

- Allowing banks not in compliance to continue to operate undermines the prudential framework and the authority of the supervisor
- If used, must have counterbalancing components



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## Lessons From Experience

- ❑ Costs of resolution are generally larger than anticipated
- ❑ Interventions aimed at preserving the current institutional structure generally do not achieve the expected outcome
- ❑ The only sure resolution is to confront the insolvency directly and address its financial implications, no matter how large...

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## Lessons From Experience *(cont'n.)*

*...Regulators, however, often delay action in the hope of a turnaround.*

Santomero and Hoffman, 1998,  
“Problem Bank Resolution: Evaluating the Options”  
Financial Institutions Center Working Paper 98-05-B

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# Open Bank Resolutions

## ☐ Rehabilitation by a Conservator

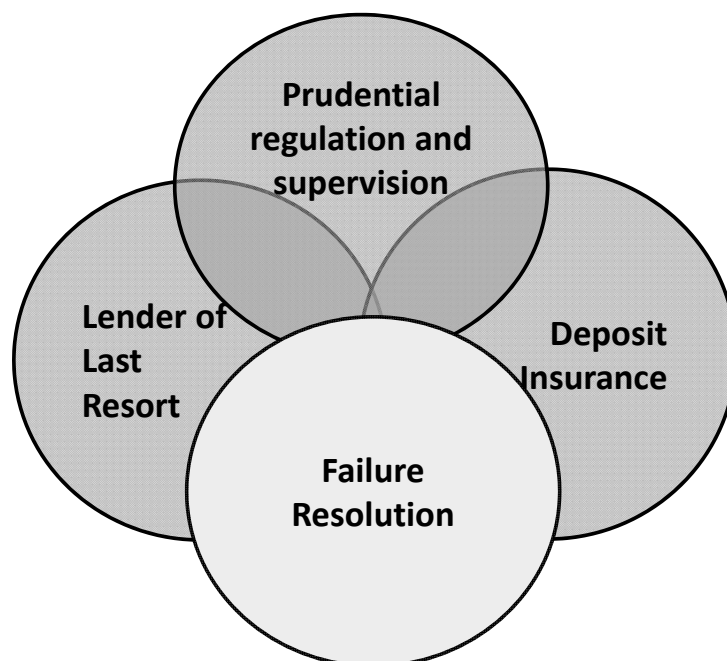
- Difficult; long-term, resource-intensive process
- Quantifying the depth of the hole is a matter of judgment—Who values the assets?
- Conflict between role of the Supervisor and managing a bank under rehabilitation?
- Moral hazard and unjust enrichment if shareholders benefit from rehabilitation at public expense

## ☐ Recapitalisation

- Through bail-in; or
- Using public funds

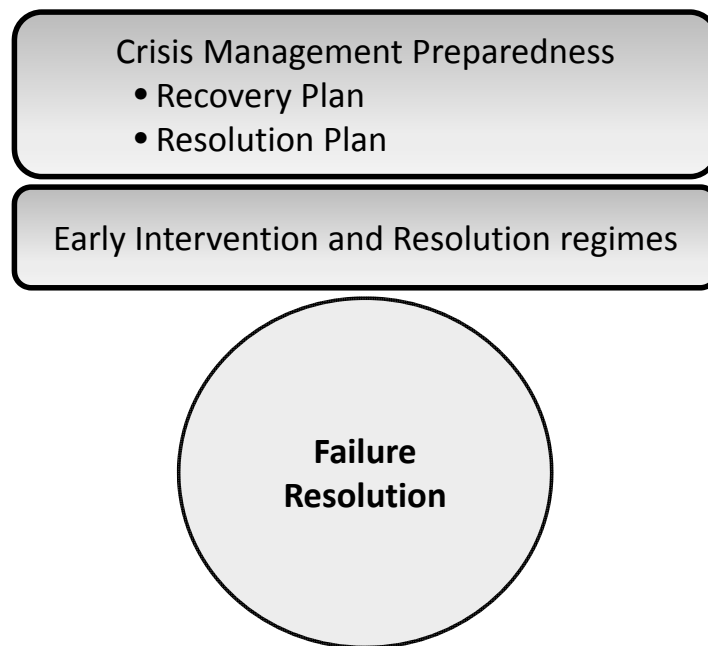
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## Interrelations between Elements of Financial Safety Nets



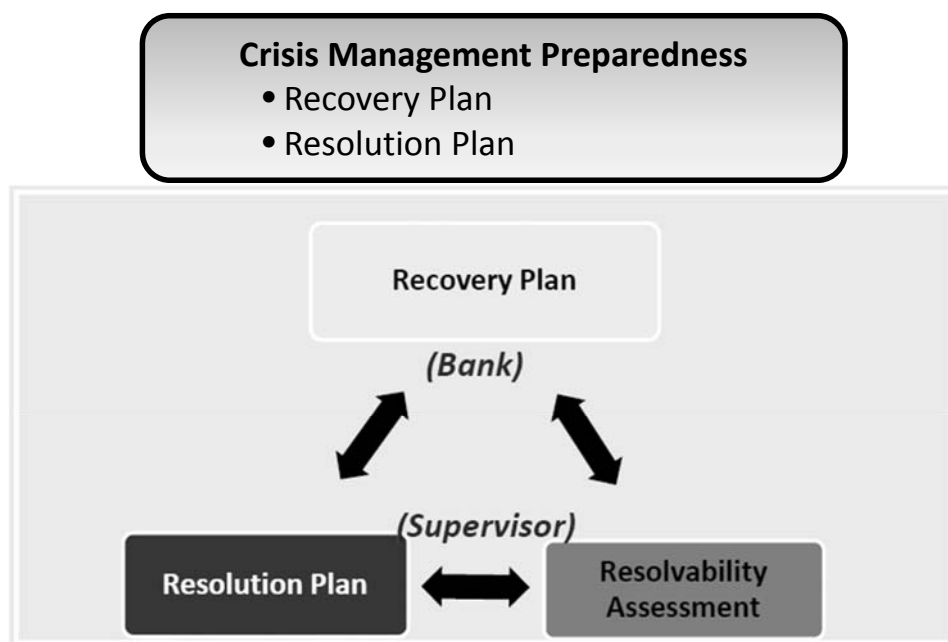
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# Interrelations between Elements of Financial Safety Nets



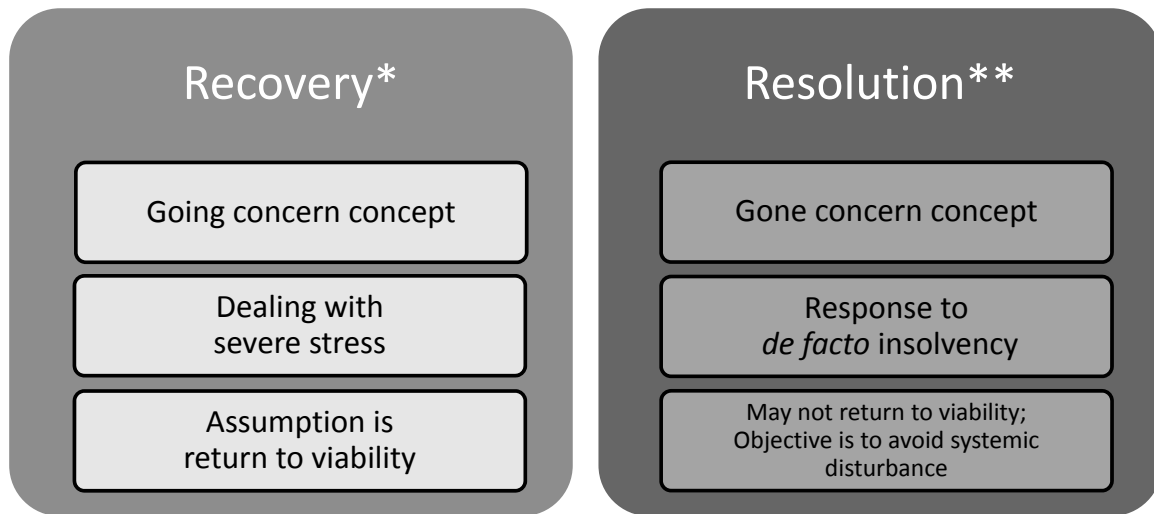
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# Interrelations between Elements of Financial Safety Nets



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# Interrelations between Elements of Financial Safety Nets



\* -"Resolution leading to normalcy"

\*\*-"Resolution leading to exit"

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## Failure Resolution

- Systemic Cases – options to achieve continuity of systemically important functions

BUT MINIMIZE MORAL HAZARD....

- Non-systemic Cases – liquidation options that provide for the orderly closure and wind-down of all or parts of the firm's business
  - ❖ Receivership; Liquidation

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# Resolution Plan

## RESOLUTION TOOLS

- Financial Assistance, Purchase and Assumption, Merger or Consolidation, Conservatorship, Closure, Liquidation

## RESOLUTION POWERS

- Remove or suspend senior management and members of the board of directors of covered institutions;
- Appoint a conservator to take charge of the assets, liabilities and management of the covered institution;
- Appoint a receiver to take charge of all the assets and liabilities of the covered institution and to administer the same for the benefit of its creditors; or
- Effect the closure and liquidation of the covered institution with pay out to depositors.



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# Resolution Plan

## SCOPE

- All Systemically Important Financial Institutions (SIFIs)
- Financial Market Infrastructures (FMIs)
- Conglomerates



## OBJECTIVES

- To provide guidance for regulators on how to prepare for a crisis and should a crisis be imminent, how to manage and resolve such crisis situation

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## Recovery Plan

- Recovery plan
  - Identifies options to restore financial strength and viability when the bank comes under severe stress.
  - Serves as a guide to the recovery of a distressed bank.
  - Prepared and maintained by the firm's senior management and reviewed by the Authorities
- 

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## Recovery Plan

- Recovery plan
  - In the recovery phase, the firm has not yet met the conditions for resolution or entered the resolution regime.
  - The recovery plan should include measures to reduce the risk profile of a bank and conserve capital, as well as strategic options, such as the divestiture of business lines and restructuring of liabilities.
- 

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## Recovery Plan

- Recovery plan should include:
  - credible options to cope with a range of scenarios including both idiosyncratic and market wide stress;
  - scenarios that address capital shortfalls and liquidity pressures; and
  - processes to ensure timely implementation of recovery options in a range of stress situations.

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## Resolvability Assessment

- A SIFI is resolvable
  - if it is feasible and credible for the resolution authorities to resolve it
  - in a way that protects systemically important functions without severe systemic disruption and without exposing taxpayers to loss.
  - For resolution to be feasible, the authorities should have the necessary legal powers - and the practical capacity to apply them - to ensure the continuity of functions critical to the economy.
  - For resolution to be credible, the application of those resolution tools should not itself give rise to unacceptably adverse broader consequences for the financial system and the real economy

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# Objectives of Resolvability Assessment

- (i) make authorities and firms aware of the implications of resolution for systemic risk both nationally and globally;
- (ii) identify factors and conditions affecting the effective implementation of resolution actions, in relation to firms, and the degree of contingency preparedness; and
- (iii) help determine the specific actions necessary to achieve greater resolvability without severe systemic disruption and without taxpayer exposure to loss, while protecting systemically important functions

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## Process for Assessing Resolvability

- **Stage 1 - Feasibility of resolution strategies:** Identify the set of resolution strategies which would be feasible
- **Stage 2 - Systemic impact assessment:** Determine the credibility of all feasible resolution strategies
- **Stage 3 - Actions to improve resolvability:** Conclude whether resolution is likely to be both feasible and credible and identify any changes necessary to the RRP or to the structure or operations of the firm to improve resolvability.

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## **Benchmark – FSB’s Key Attributes**

- ~~Purposes of an orderly resolution regime~~
  1. Avoid severe systemic disruptions
  2. Avoid taxpayer exposure to loss
  3. Protect vital economic functions through mechanisms that make it possible for shareholders and unsecured and uninsured creditors to absorb losses (bail-ins)

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## **Benchmark – FSB’s Key Attributes**

- All SIFIs should be covered by the resolution regime
- Resolution authorities should have the powers to remove and replace management and directors; to terminate contracts; to establish bridge institution and initiate a bail-in
- Achieve orderly resolution across borders

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# Closed Bank Resolutions

- ❑ Closure should not mean padlocking the doors and then figuring out what to do with the queue of angry depositors
- ❑ A well planned closure is a means of orderly exit, preserving the viable parts of a bank
  - Merger/ Consolidation
  - Sale of all or part of the assets
  - Liquidation with payout of deposits



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## Merger

- ❑ Sometimes used to avoid public acknowledgement of a bank failure using a stronger bank to effectively acquire the weak bank
- ❑ Risk of dragging down the stronger bank, especially if the stronger bank is not much larger than the failing bank
- ❑ Only half of mergers among healthy banks are successful



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## Purchase and Assumption (P&A)

- ❑ Another bank purchases the assets
  - All assets, with discounts, guarantees or put options used to deal with non-performing assets
  - Selected assets, with some remaining in the shell of the failed bank for liquidation
- ❑ Purchase price paid by assuming liabilities
  - Purchaser may pay a premium for the franchise value of deposits or a matched book of deposits and assets

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## Types of Purchase and Assumption

- ❑ Basic
  - Purchaser acquires only cash and liquid assets
- ❑ Loan purchase—various options
  - Only good loans sold
  - Bad loans sold in packages at a discount
  - Guarantees or put options
  - Loss sharing agreements
- ❑ Whole bank
  - Purchasers bid on all assets of the bank

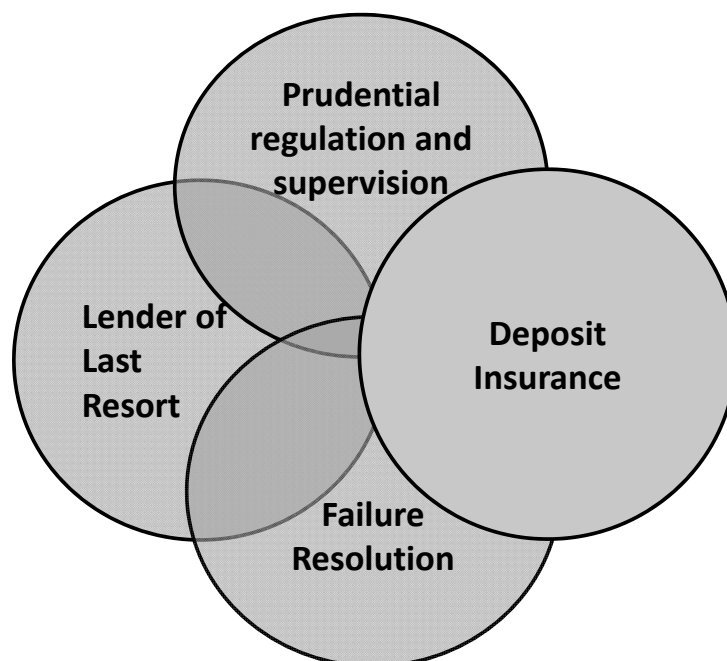
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## Tricks of the Trade

- Recoveries are enhanced if assets can be sold rather than liquidated
- Invite bids on whole bank as well as on identified packages of assets
- The worst assets and legal actions against the failed bank are left in the shell for liquidation
- Selling bad assets at a discount provides the greatest certainty

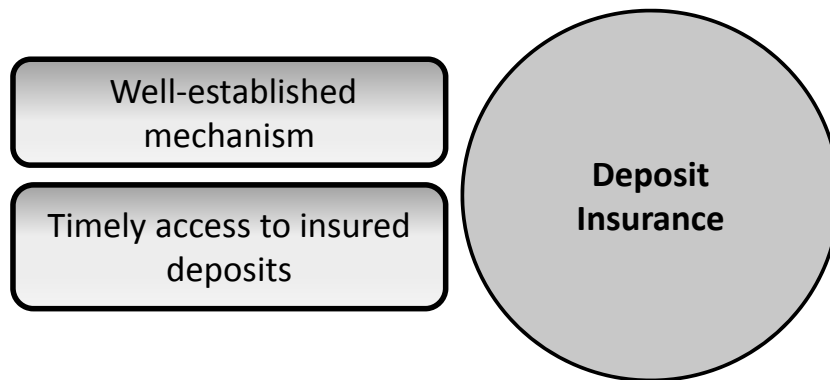
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## Interrelations between Elements of Financial Safety Nets



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# Interrelations between Elements of Financial Safety Nets



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## Coordination between Supervisory and Resolution Authorities

- Bank failure is seldom a sudden event
- The regulator and the Deposit Insurance Corporation should coordinate closely to pre-prepare for resolution
  - Joint on-site examinations
  - Discreet enquires about potential purchasers
  - Review legal options
  - Identify needed internal and external resources

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# Taking Control

- ❑ Conservatorship
  - A tool, not a resolution strategy
  - Allows detailed evaluation and decision regarding ultimate resolution
  - Buys time, but is expensive because losses continue to accrue
- ❑ Directing the Deposit Insurance Corporation to proceed with liquidation
  - A means to sell good parts of the bank
  - A tool to achieve a resolution without shareholder and creditor consent
  - A means to liquidate a bank with few good assets or intractable litigation

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## Liquidation and Deposit Payout

- ❑ Assets liquidated
  - Condition of bank is so bad, there are few attractive assets
  - So much litigation or such a bad reputation that reputable buyers are not interested even if there are good assets
- ❑ Disruption can still be minimised
  - Prompt payment by the deposit insurer
  - Use of an agent bank



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## G-SIBs as of November 2016<sup>9</sup> allocated to buckets corresponding to required levels of additional capital buffers

Bucket <sup>10</sup>	G-SIBs in alphabetical order within each bucket
5 (3.5%)	(Empty)
4 (2.5%)	Citigroup JP Morgan Chase
3 (2.0%)	Bank of America BNP Paribas Deutsche Bank HSBC
2 (1.5%)	Barclays Credit Suisse Goldman Sachs Industrial and Commercial Bank of China Limited Mitsubishi UFJ FG Wells Fargo
1 (1.0%)	Agricultural Bank of China Bank of China Bank of New York Mellon China Construction Bank Groupe BPCE Groupe Crédit Agricole ING Bank Mizuho FG Morgan Stanley Nordea Royal Bank of Scotland Santander Société Générale Standard Chartered State Street Sumitomo Mitsui FG UBS Unicredit Group

<sup>9</sup> Compared with the list of G-SIBs published in 2015, the number and names of banks identified as G-SIBs remain the same. Four banks moved to a higher bucket: Citigroup moved from bucket 3 to 4, Bank of America moved from bucket 2 to 3, Industrial and Commercial Bank of China and Wells Fargo moved from bucket 1 to 2. Three banks moved to a lower bucket: HSBC moved from bucket 4 to 3, Barclays moved from bucket 3 to 2 and Morgan Stanley moved from bucket 2 to 1.

<sup>10</sup> The bucket approach is defined in Table 2 of the Basel Committee document [Global systemically important banks: updated assessment methodology and the higher loss absorbency requirement](#), July 2013. The numbers in parentheses are the required level of additional common equity loss absorbency as a percentage of risk-weighted assets that applies to each G-SIB. Based on the implementation schedule, G-SIBs identified in this list will be required to hold in 2018 75% of the higher loss absorbency requirement applying to the bucket of systemic importance to which they have been allocated in the list published today.