

Commission's Crisis Management and Deposit insurance package (CMDI)

May 2023



Key changes at a glance



Expanding the scope of resolution

- **Broader PIA** including **more institutions within the scope of resolution to reflect local systemic impact**;
- To activate insolvency proceedings, NRAs will need to demonstrate that resolution is not the least detrimental option



Clarifying the early intervention framework and MREL calibration

- **Removal of the overlaps** between early intervention (BRRD) and supervisory measures (CRD);
- **Increased cooperation** between NCAs and NRAs.
- Clarification of **MREL calibration** for transfer strategies



Improving the level playing field

- **Mandatory use of the least cost test** for all types of DGS interventions outside payout of covered deposits in insolvency.
- **Resolution must always be preferred if insolvency would be more costly** for the DGS.



Strengthening the funding in resolution

- **Possibility to use the DGS to bridge the access to the resolution funds** under certain conditions;
- DGS can also be used in resolution, for **preventive measures** or for alternative measures in insolvency.



Amending the hierarchy of claims in insolvency and ensuring depositor preference

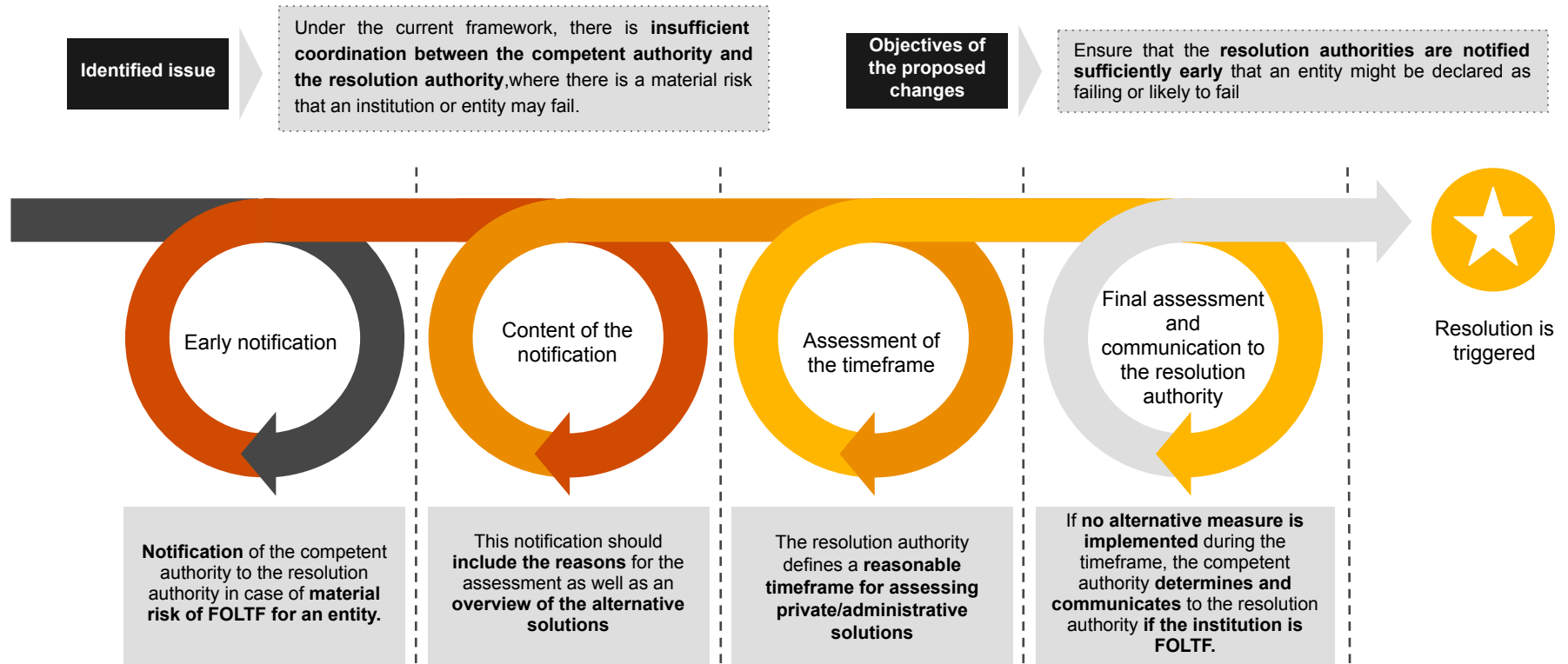
- New **general depositor preference** to replace DGS “super preference”;
- **Improvement of transparency** on financial robustness of DGSs.



Depositor protection

- **Extension of the deposit protection to public entities**;
- **Increased protection for amounts in excess** of EUR 100 000 for temporary high balances;
- New equivalent **protection for client funds held by non-bank** financial institutions.

Focus topic: New early warning of failing or likely to fail procedure



Focus topic: Public interest Assessment (PIA)

Current functioning of the Public Interest Assessment (PIA)

The **public interest assessment** (PIA) determines whether resolution would have a less severe impact on overall financial stability than 'classic' insolvency proceedings, in particular assessing how each scenario achieves the resolution objectives:

- the **impact on financial stability** (a wide-spread crisis may result in a different outcome of the PIA than an idiosyncratic failure);
- the assessment of the **impact on the bank's critical functions**;
- the need to **limit the use of extraordinary public financial support**.

Identified issue with the PIA

The current margin of discretion left to the resolution authorities leads to **divergent applications and interpretations**.

Objectives of the proposed changes

Minimise divergences and increase the number of entities with a positive PIA.

Proposed refinements to the resolution objectives

- The **criticality of a bank's functions** on financial stability will be **assessed at regional level** (and not only at national level), resulting in a **larger number of banks being included within the scope of resolution**;
- Resolution authority are required to **consider and compare all extraordinary public financial support** that can reasonably be expected to be provided in either case. If **liquidation aid is expected**, this should lead to a **positive PIA outcome and trigger resolution**;
- Mandatory application of the '**least cost test**': **resolution must always be preferred if insolvency would be more costly for the DGS**.

Proposed procedural changes to the comparison between resolution and national insolvency proceedings

- National **insolvency proceedings should be selected as the preferred strategy only when they achieve the framework's objectives better than resolution** (and not to the same extent).

If solvency is elected, **NRAs must demonstrate that resolution was not in the public interest**.

Focus topic: Use of DGS in resolution

Identified issues with the DGS

- **Scope** of depositor protection;
- **Divergent interpretation** of conditions for the use of DGS funds;
- **Operational effectiveness and efficiency** in the way DGSs work.

- The level of coverage of EUR 100 000 per depositor and bank remains for all EU eligible depositors;
- The reform will improve depositor protection across the crisis management framework.

Temporary high balances on bank accounts

Harmonisation of the protection of the amounts in excess of EUR 100 000 linked to life events. The following are protected to at least EUR 500 000 for at least 6 additional months from the moment the amount is credited:



Real estate transactions



Insurance indemnities



Inheritance

Deposits from public entities

Harmonisation of the extension of coverage to all public entities to reduce losses on public funds such as:



Hospitals



Schools, universities



Municipalities

Protection of client funds' deposits

Client funds held by non-bank financial institutions will now benefit from the same EUR 100 000 protection as bank deposits.



Payment institutions



Investment firms



E-money institutions

Novelties for DGS funds

- **Branches** of credit institutions **established in third countries must join their host country's DGS**. There is no longer an equivalence system recognised.
- If DGS are used in the context of a **transfer strategy**, they will have a **claim against the entity to be wound down** in the wind-down proceedings.
- The **DGS** can be **used within the context of a transfer strategy to bridge the gap** between the **value of transferred assets and the deposits**, only insofar as it is used to protect depositors.

Focus topic: Depositor preference

Current depositor preference

The original BRRD created a three-tier depositor preference in the hierarchy of claims. It provided that **covered deposits and DGS claims had a so called 'super-preference'** in the creditor ranking in the insolvency laws in each Member State relative to non-covered preferred deposits.

BRRD is silent on the ranking of the remaining deposits, that is, non-covered non preferred and excluded deposits.

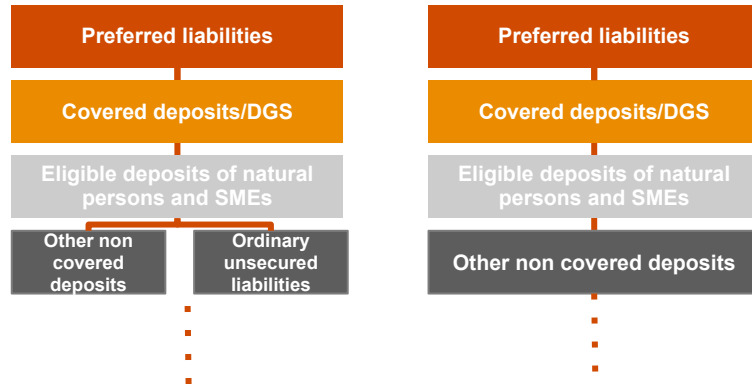
Identified issue

- Lack of general depositor preference creates:
 - an **uneven playing field** and;
 - **impediments to resolution in a cross-border context.**

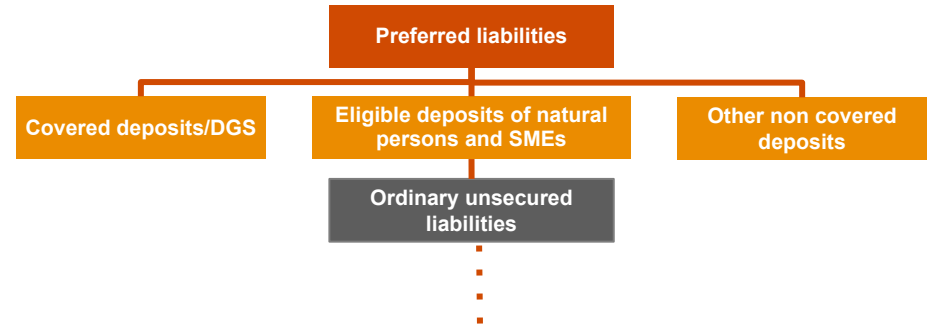
Objectives of the proposed changes

- The reform **introduces a general depositor preference** with a single-tiered ranking;
- The super preference of the DGS is waived, thus reinsuring the bank's share of the burden.

Original DGS "super preference"



New general depositor preference



Focus topic: MREL calibration for transfer strategies

As already provided under the current framework, the **level of the MREL** requirement should **reflect the preferred resolution strategy** (generally open-bank bail-in for large and complex institutions and transfer tool strategies for smaller institutions).

For institutions with **transfer strategies**, MREL calibration should reflect the **absence of recapitalisation amount**.

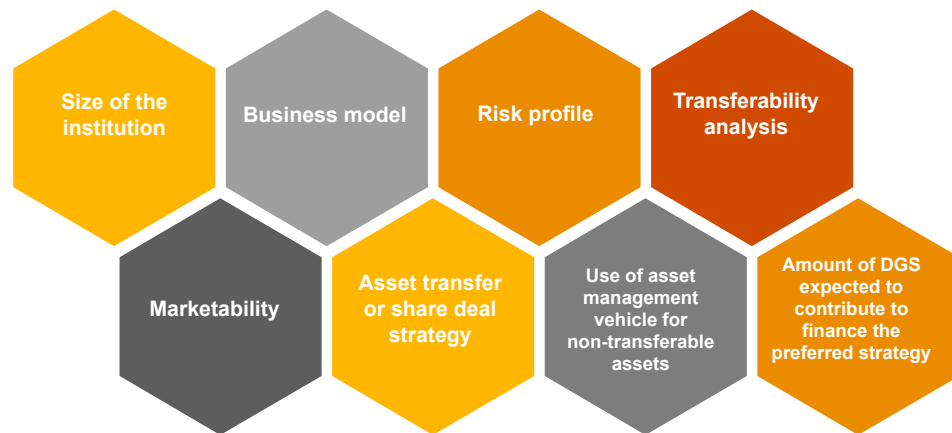
Identified issue

The BRRD does **not regulate in detail MREL calibration for transfer strategies**, which resulted in **uncertainty and divergent methodologies** across MS.

Objectives of the proposed changes

New principles have been devised which should be considered when calibrating MREL for transfer strategies.

NRAs will have to **consider the following elements when calibrating the MREL for institutions with a transfer resolution strategy**.



Other provisions

1 New possibility for the SRB to follow a **simplified approach** with respect to **subsidiaries** when drafting **group resolution plans**.



2 New **possibility** for the Chair, the Vice-Chair and the permanent Members of the Board to **serve a second term in office** and addition of a **voting right to the Vice-Chair**.



3 Possibility for the SRB to **disclose its analyses and assessments** when this would **not undermine the protection of the public interest** as regards financial, monetary or economic policy.



4 The SRB can now instruct the NRAs to **prohibit certain distributions** where an entity does not meet its buffer and MREL requirements.



5 Clarification that the **claims of the SRB have the same ranking as the claims of the national resolution funds**.



6 Clarification of the **interactions between competent and resolution authorities** and **removal of overlapping legislative provisions**.



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