Overview of the Bank Recovery and Resolution Directive

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Introduction

- Overview of RegZone
- Focus on BRRD
BRRD – Background

- Continuing fallout from financial crisis and associated “bail-outs”
- EU initiatives to increase financial stability included:
  - Overhaul of European system of financial supervision
  - CRD IV
  - Amended Deposit Guarantee Scheme Directive
  - BRRD
- Some states – notably UK – have anticipated BRRD, and more to come (e.g. Liikanen/ring-fencing)
BRRD – Scope

- BRRD applies to credit institutions and certain investment firms
- Provisions extend to other group companies, notably holding companies
- BRRD relatively high level – EBA developing various Regulatory Technical Standards and guidelines
- Competent authority vs. resolution authority
- Implementation by 1 January 2015 (except bail-in: 1 January 2016)
BRRD – Overview

- BRRD broadly divides into three elements

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BRRD – pre-resolution intervention

- Intervention powers:
  - Financial condition is rapidly deteriorating or close to doing so
  - Powers include change of strategy; implementation of recovery plan; forcing change of management
- Rules on contingent support from group companies
- Write down of capital instruments
  - Trigger test is vague
  - Applies to AT1 and T2
  - Priority to be observed
  - No “NCWO” protection
BRRD – resolution

- Objective of continuity as well as protecting depositors/minimising impact on financial system and public funds
- Firm is failing or likely to fail, and no reasonable prospect of avoiding failure through intervention measures
- Nine resolution principles
- Range of resolution tools, including sale of business, asset separation and bail-in
- Valuation requirement
BRRD – bail-in

- Excluded liabilities (e.g. covered deposits, secured liabilities)
- Minimum requirement for eligible liabilities – firm-by-firm calculation
- Foreign law governed liabilities must recognise bail-in risk
- Implementation on 1 January 2016 (but UK, 1 January 2015, apart from MREL)
- Bail-in may occur at holding company level
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