Capitolo 7 - La matassa ingarbugliata della Banking Union

“In June 2012, euro area leaders affirmed, — it is imperative to break the vicious circle between banks and sovereigns…. “ (IMF 2013: 20).

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Un’unione bancaria (UB) è un pilastro essenziale di una UM ben funzionante. Cominceremo con lo spiegare cos’è una crisi bancaria. Successivamente confronteremo la gestione di una crisi bancaria negli Stati Uniti, dove esiste un’UB, e nell’Eurozona dove solo recentemente si è costituita una UB. Studieremo al riguardo gli elementi costitutivi di una UB e verificheremo se l’Europa sta effettivamente muovendo verso una UB efficiente ed efficace.

7.1. Cos’è una crisi bancaria

Un post di Ed Nolan riprodotto nel box spiega i termini delle crisi bancarie. Vale la pena di osservare che i casi dei piccoli paesi (Islanda, Cipro) caratterizzati da una crescita abnorme dell’intermediazione di capitali internazionali da parte del locale settore bancario, si differenziano da quelli della Spagna (e anche dei Paesi baltici) in cui la crisi delle banche è più legata all’afflusso

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di capitali e al boom immobiliare, in ciò più simili alla crisi americana. Il caso irlandese è una via di mezzo.

**Bailouts, Bail-ins, Haircuts and All That: Program Notes for the Cyprus Banking Drama**

Ireland, Iceland, now Cyprus—the story of small countries with oversized banking systems is all too familiar. There is never a shortage of commentary when a crisis erupts, but much of it assumes a working knowledge of financial terms and concepts. General readers are left wondering—What is a **haircut**? What is the difference between a **bailout** and a **bail-in**? Who wins and who loses when the government steps in to rescue a failed bank?

I know the feeling behind these questions. It is the same as I get when I go to an opera sung in an unfamiliar language. If you are among those who ask such questions, what you need are some program notes to help you understand the Cyprus drama, and by extension, other banking crises like it.

**Act 1, Scene 1. How can we tell if a bank has failed?**

System-wide banking crises like that in Cyprus always begin with the failure of individual banks. In principle, it ought to be easy to tell when a bank has failed. In practice, that is not always the case.

Let’s start with the simplified balance sheet of a representative bank. The bank’s **assets** include all the things of value that it owns. This bank has $50 worth of reserves in the form of deposits at the central bank, currency in its ATM machines, and other items that we loosely refer to as “cash.” Next come loans to consumers and businesses, which are the largest item for most banks, $600 in this case. The bank also holds securities, such as government bonds or mortgage backed securities, worth $350 dollars. A real bank balance sheet would have other smaller items, including buildings and business equipment.

<table>
<thead>
<tr>
<th>Simplified Balance Sheet of a Typical Bank</th>
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<tbody>
<tr>
<td><strong>Assets</strong></td>
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<tr>
<td>Reserves (cash)</td>
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<tr>
<td>Loans</td>
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<tr>
<td>Securities</td>
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<tr>
<td><strong>Total</strong></td>
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The bank’s **liabilities** include all the things it owes to others. Deposits are the biggest category for most banks. Banks also borrow funds from other creditors, for example, by selling bonds and through short-term interbank markets. Some of this borrowing is secured by specific collateral and some is unsecured.
We define the bank’s capital, which represents the shareholders’ stake in the bank, as total assets minus total liabilities. Businesses like industrial corporations or retail stores often have capital equal to half or more of their assets. This bank has capital equal to just 10 percent of assets, which is typical of the banking sector. We say that a bank with a low ratio of capital to assets has a high degree of leverage.

It is clear from these definitions that any loss in value of the bank’s assets, while its liabilities remain unchanged, will reduce a bank’s capital. The most common reasons for a loss of asset value are failure of borrowers to repay loans in full (credit risk) and decreases in the market price of securities the bank owns (market risk). If the losses are big enough, capital falls to zero or below, and the bank fails. The technical term for bank failure is insolvency.

In the case of Cyprus, banks’ biggest losses came from investments in Greek government bonds, which lost value as the Greek government struggled with its own financial crisis. The following before-and-after balance sheets show what happens to our simplified bank when the securities it holds fall in value by $100. (Items that change are shown in color.) After the loss, the bank’s assets have fallen to just $900 while its liabilities of $900 remain unchanged. Its capital—assets minus liabilities—has fallen to zero. It is insolvent.

<table>
<thead>
<tr>
<th>Balance Sheet Before Loss of $100</th>
<th>Assets</th>
<th>Liabilities and Capital</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reserves (cash)</td>
<td>50</td>
<td>Deposits</td>
</tr>
<tr>
<td>Loans</td>
<td>600</td>
<td>Borrowing</td>
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<tr>
<td>Securities</td>
<td>350</td>
<td>Capital</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>1000</strong></td>
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<td>600</td>
<td>Borrowing</td>
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<tr>
<td>Securities</td>
<td>250</td>
<td>Capital</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>900</strong></td>
<td><strong>Total</strong></td>
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</tbody>
</table>

In practice, it is not always easy to tell whether a bank is solvent or not just by looking at its balance sheet. There are two main reasons for this.

First, not all bank assets are marked to market. That means that the book value that the assets are given on the balance sheet does not always reflect the value at which they could be sold.

Second, some balance sheet items are assigned values for regulatory purposes that are different from the values they would have under ordinary accounting standards. As a result, capital, as measured by regulators, can be much greater than capital as measured by simple subtraction of liabilities from assets. (For a long wonky discussion of this point, see this earlier post.)
For these reasons regulators are often the last to declare that banks have failed, even long after the fact is apparent to everyone else. That is exactly what has happened in the case of Cyprus. By any common sense measure, they are insolvent, but as of this writing, the European Central Bank (ECB) has not yet officially declared that to be the case.

**Act 1, Scene 2. Bank Runs**

A loss of asset value is always the proximate cause of bank failure, but *bank runs* can be a contributing cause. The classic form of bank run occurs when depositors line up to withdraw their money from a bank because they fear it will become insolvent. Sometimes, as in the case of Cyprus, regulators try to stop a run by temporarily closing the banks, but even when the banks were closed, Cypriots drained every euro they could out of their ATMs. Runs are not always limited to depositors. They can also take the form of a refusal by non-deposit creditors to renew the bank’s short-term borrowing. For example, other banks may cut off interbank loans to a bank that looks at risk of failure.

If a bank had unlimited reserves of cash or if it could always sell its loans and securities at the full value listed on its books, a run could not cause insolvency. It would simply reduce liabilities and assets by equal amounts, leaving capital unchanged. However, not all of a bank’s assets are fully *liquid*, that is, capable of being converted to cash at their full value on short notice. What often happens is that a bank faced by a run quickly exhausts its reserves of cash. After that it may be forced to sell assets at “fire sale prices.” Remember, the assets are not marked to market, so that the price they bring from a quick sale may be well below what they would be worth if the bank could hold them until they mature. When a run forces a bank to sell assets for less than their book values, total assets fall by more than liabilities, and capital quickly falls toward zero.

The next set of before-and-after balance sheets illustrates how a run can cause an apparently solvent bank to fail. In this case, imagine that depositors suddenly withdraw $300. The bank meets the first $50 of withdrawals out of its cash reserves. When those are gone, it tries to sell some of its securities. However, when it tries to sell them on short notice, perhaps at a time when the market is nervous because other banks are also threatened with failure, it has to accept fire-sale prices. In this case, we assume that it needs to sell all of its securities, previously valued at $350, to gain the remaining $250 it needs to pay to depositors. In the end, although the bank’s liabilities fall by just $300, the value of its assets fall by $400 and it becomes insolvent.
Act 2, Scene 1. Liquidation and haircuts

If regulators permit it, an insolvent bank may manage to stay open at least for a time. The ECB has allowed that in the case of the insolvent banks of Cyprus, at least for the time being. However, insolvent but operating banks, sometimes called “zombie banks,” are dangerous. Since their shareholders no longer have any capital to lose, they may be tempted to take extreme risks in the hope of restoring solvency. In other cases, seeing that the end is near, owners or managers may simply steal the bank’s remaining assets and disappear. Even if managers act in good faith, as long as the banks stay open, their losses are likely to continue. As their capital falls farther into negative territory, any eventual restructuring becomes more and more costly. In short, good regulatory practice dictates that insolvent banks not be allowed to continue operations.

Suppose regulators decide to follow good practice and liquidate a failed bank. We can see how this works by continuing our earlier example, starting from the last balance sheet shown above. Liquidation means selling remaining assets for whatever they will bring and then distributing the proceeds of the sale among those with claims against the bank. In this case, the bank’s remaining assets consist of loans with a book value of $600, but since the loans are not marked to market, so it may not be possible to sell them for that much. Suppose that when regulators sell them as part of the liquidation process, the best price they can get is $500. They must then decide who gets the money.

Normally, liquidation gives highest priority to depositors. In this case, sale of the loans produces enough cash to pay off the remaining $400 of depositors’ claims in full. The next highest priority goes to other creditors, who have $200 in claims. Since there is only $100 left after paying off depositors, those non-deposit creditors get just 50 cents on the dollar. In financial slang, they are said to receive a haircut of 50 percent.

In practice, assignment of haircuts is complicated by the fact that some of the bank’s borrowing is usually secured by claims on specific collateral like government securities. The
secured creditors are legally beyond the reach of haircuts. Suppose, for example, that the $200 of borrowing of our simplified bank consisted of $75 of secured borrowing and $125 of unsecured borrowing. The secured creditors would get their full $75. Distributing the remaining $25 among the unsecured creditors would then amount to a haircut of 80 percent on their $125 of claims.

Some banks, including those in Cyprus, have very little by way of unsecured borrowing. Their liabilities consist almost entirely of deposits. In such a case, liquidation could easily not realize enough cash to pay depositors in full, so they, too, may be subject to haircuts. That is exactly what EU authorities initially recommended for Cyprus: Large depositors were supposed to take a 9.9 percent haircut, and small depositors a haircut of 6.75 percent. Cypriots were furious. Wealthy Russians, who have a lot of money deposited in the banks of Cyprus and a lot of behind-the-scenes clout in its parliament, were even more furious. Even the President of Russia, Vladimir Putin, jumped into the fray, calling the proposed restructuring plan “unfair and unprofessional.” Even after the plan was changed to protect small depositors, the Cypriot parliament rejected the proposed haircut, deepening the crisis.

**Act 2, Scene 2 Tools of restructuring**

In practice, regulators do not always liquidate insolvent banks. They are especially likely to avoid liquidation if they think a bank is too big to fail (TBTF). They may see a bank as TBTF because of a fear of financial contagion, for example, the fear that failure of a large bank might start a panic that would damage the whole financial system or might cut off a vital source of credit for nonfinancial businesses. In other cases, the perception of TBTF may reflect political capture of the regulators by banks, though cronyism, a revolving door of appointments between bankers and regulators, campaign contributions, or other forms of corruption.

If, for whatever reason, regulators think a bank is TBTF, they must carry out some kind of restructuring that will restore it to solvency. Several tools are available to do this.

The simplest tool is to loan the bank some cash. Such a loan can give the bank time to sell off assets at better prices and to shrink its balance sheet to a manageable size. If the loan is made at a below-market interest rate, it may help stem losses or even make the bank profitable again.

As the crisis in Cyprus deepened, the ECB continued to make loans to the country’s troubled banks. That is one of the reasons it refrained from declaring those banks insolvent, since its charter permits it to loan money only to banks that are solvent, or that it can at least pretend are solvent.

Knowledge that the government stands ready to act as lender of last resort to the bank may be enough to stop a run. However, because the immediate effect of a loan is to raise liabilities and assets by the same amount, it does not immediately increase a bank’s capital. For that reason,
although loans can help weak banks that face temporary liquidity problems, they are not by themselves enough to save banks that are already deeply insolvent.

A more powerful tool of bank restructuring is for regulators to exchange some of the bank’s bad assets for good assets supplied by the government. For example, suppose the bank holds securities backed by subprime mortgages that have a face value of $100 million, but a market value of only $50 million. Swapping the mortgage-backed securities for $100 million of safe government bonds would add $50 million to the bank’s capital. This kind of asset swap is sometimes called a carve-out. Regulators then move the bad assets to the balance sheet of some agency that has the job of selling them or managing them to extract as much value as possible. Such an agency sometimes goes by the colorful name of a bad bank.

Another powerful tool of restructuring is to supply cash or safe government bonds to the bank in exchange for shares of stock. Such an operation, which increases the bank’s capital even more directly than a carve-out, is called a capital injection.

Act 2, Scene 3. Bailouts and bail-ins

Sufficiently large capital injections or carve-outs can bring even the most troubled bank back to solvency, but they can be very costly. In the case of Cyprus, the cost of the rescue plan proposed by EU authorities was roughly 40 percent of the country’s GDP. When regulators rescue an insolvent bank, they must not only decide what tools to use, but who will bear the cost.

The first question is what to do about a bank’s shareholders. One possibility is a full nationalization of the bank that wipes out the original shareholders altogether. The government can then use a carve-out or capital injection, or both in combination, to restore the nationalized bank to solvency, and eventually reprivatize it.

At the other extreme, the government may use a combination of loans and carve-outs that leave the shareholders in place as owners of a newly solvent and profitable bank. It is that kind of restructuring that most accurately deserves the term bailout.

In between, the government may decide to recapitalize the bank through an issue of new shares that leaves the original shareholders in place but dilutes their stake in the bank’s capital. Such a case, where shareholders suffer losses but are not fully wiped out, amounts to a partial bailout.

The next question is what happens to the bank’s unsecured creditors. As explained above, if a bank’s capital falls below zero, a simple liquidation will result in losses (haircuts) for unsecured creditors. However, restructuring through a carve-out or capital injection may leave unsecured creditors untouched, bailing them out in full even when shareholders suffer losses.
Bailouts of bank shareholders and unsecured creditors are not popular. They are often an object of popular protest, and equally, of criticism by financial specialists. Both ethical and practical reasons lie behind the unpopularity of bailouts.

The ethical case against bailouts rests on the notion that shareholders and bank creditors are grown-ups. They willingly put their money at risk by investing it in banks that they should have seen, through due diligence, to be far from risk free. If the gamble of buying shares in a shaky bank or making unsecured loans to it pays off, investors expect to keep their profits. Accordingly, if the gamble does not pay off, it is only just that they should take their losses.

The practical reason for not bailing out unsecured creditors is that doing so creates a situation of moral hazard. In finance, that term means a situation in which people who are protected from risk are tempted to take greater risks. If people know that the government will bail out the shareholders and unsecured creditors of banks that are TBTF, but not those of banks that are small enough to liquidate safely, they will provide funds to TBTF banks more cheaply than to smaller banks. That gives large banks a competitive edge over smaller ones, so they grow ever bigger, making the TBTF problem worse over time. Critics like Richard W. Fisher, President of the Federal Reserve Bank of Dallas, think that is exactly what has happened in the U.S. banking system since 2008.

To avoid the ethical and practical problems of bailouts, regulators may insist that unsecured creditors, as well as shareholders, take haircuts as a condition of the restructuring. Our earlier example showed how haircuts work for a bank that is being liquidated. When the bank is being restructured instead of liquidated, the same logic applies. Every dollar of haircut that creditors are subject to means one less dollar that regulators must inject into the bank to restore its capital to an adequate level.

For example, suppose a bank has $200 million in unsecured borrowing and needs $100 million in capital to become adequately solvent. Regulators might agree to inject $50 million of government funds into the bank on the condition that creditors agree to a 25 percent haircut. The haircut reduces the value of the bank’s liabilities by $50 million, so that the combined effect of the haircut and the capital injection is to increase the bank’s capital by the necessary $100 million.

Such an arrangement makes the unsecured creditors partners in the government’s recapitalization efforts rather than beneficiaries of it. For that reason, it has come to be called a bail-in of unsecured creditors, to distinguish it from a bailout, in which creditors benefit from the restructuring without being called on to make any contribution to it.

What about depositors? Most countries protect small depositors through deposit insurance. For example, the Federal Deposit Insurance Corporation in the United States protects deposits up to
$250,000 per depositor per bank. A much more controversial issue is whether large depositors, too, should receive full protection. U.S. regulators extended unlimited insurance protection, for a time, during the financial crisis. In contrast, in the case of Cyprus, authorities of the European Union initially insisted that not only large depositors, but small ones, be bailed in.

**Act 3. Two final principles regarding bank failures**

I am writing this post in the intermission before the final act of the Cypus banking opera, so detailed program notes will have to wait. However, it is worth calling attention to two general principles regarding bank failures and restructuring that will shape the way things will unfold in that country.

**Banking losses are real losses.** The first principle is that banking losses are real losses. It is easy to forget that. Descriptions of bank crises often focus on exotic financial instruments like collateralized debt obligations and credit default swaps. Some people see decreases in the value of such instruments as “only paper losses.” It seems them that it should be possible to erase all that “funny money” though some kind of accounting trick without touching the real economy.

Unfortunately, that is not how things work. Although some kinds of financial losses may net out against one another, when the dust settles, we find that there are real losses behind all the paper. For example, behind the 2008 financial crisis in the United States, Ireland, Spain and several other countries there were wild overinvestments in real estate. Houses and condos were built that no one wanted to buy, at least not for enough to pay for the bricks and the wages of the bricklayers. In Cyprus, funds supplied by bank depositors were used to buy Greek government bonds, which, in turn, were used to pay the salaries of Greek bureaucrats to do work that critics claim was unproductive and overpaid. There is no way to recapture that wasted labor now.

Because banking losses are real losses, someone always ends up bearing them. The only question is who.

**One insolvent sector cannot bail out another.** The game of bailout and bail-in is a matter of deciding who bears the losses of bank failure. Unfortunately, the game has a fundamental rule that one insolvent sector cannot bail out another.

For example, life would be easier if all of the losses of failed banks could be loaded on the shoulders of shareholders. Unfortunately, shareholders can bear losses only to the extent of the capital that they have at risk. If a bank were liquidated at the exact moment its capital dropped to zero, then yes, the shareholders would be the only ones hurt. In practice, however, a bank’s capital is often far below zero before it becomes obvious that it has failed. In that case, losses exceed the investment made by shareholders, so someone else must be bailed in.
Creditors, large depositors, and even small depositors are among those in line for haircuts when a deeply insolvent bank is restructured. Often, however, some or all of those parties are politically powerful enough to avoid bearing their fair share of the costs. When that happens, the country’s taxpayers are the ones who pay. The government issues bonds to fund its bailout and taxpayers bear the burden of the interest and principal for years to come.

In some cases, even the country’s government is insolvent. It lacks either the power or the will to sell the bonds or levy the taxes that would be needed for a complete restructuring.

Sometimes that leads to a chaotic outcome. For example, when a banking crisis hit Russia in 1997, the government largely stood aside. Banks simply collapsed, leaving individual depositors and many businesses with huge losses and incapable, for a time, of making any but the simplest cash payments to one another. Meanwhile bank insiders stole billions of rubles, sticking small depositors and poorly connected creditors with huge losses. It is ironic that Russia, always sensitive to others’ interference in its own domestic affairs, is now offering unsolicited advice to EU and Cypriot authorities on the proper way to conduct a bank restructuring.

Iceland provides another example of a country that could not afford to restructure its banking system, which at one time had assets more than ten times larger than the country’s GDP. When several of the largest banks failed in 2008, the government was not able to do more than offer limited protection to domestic depositors. Foreign depositors and other creditors were left to fend for themselves. The situation was not accompanied by the degree of corruption and criminality that Russia saw in 1997, but it deeply shook the Icelandic economy and left a legacy of bitter diplomatic disputes.

In Cyprus, the situation is still touch and go. One thing is sure: The total losses of Cyprus banks exceed the resources of the country’s government. If it tried to absorb the cost of a full bailout, government debt would rise to unsustainable levels approaching 200 percent of GDP. The Cypriot government has sought outside aid from the EU, the IMF, even Russia, but it may be some time before it is clear where the ultimate losses fall.

7.2. Stati Uniti ed Eurozona a fronte di una crisi bancaria

Un post di Daniel Gros3 spiega bene perché un’UB sia un pilastro essenziale di una UM ben funzionante. Gros confronta i meccanismi di gestione delle crisi bancarie del Nevada e dell’Irlanda. Ambedue gli stati avevano attraversato prima della grande crisi una bolla edilizia sfociata, appunto, in una crisi bancaria. Nell’un caso, tuttavia, la crisi è stata affrontata a livello federale, nell’altro fondamentalmente a livello nazionale. Nel primo caso lo Stato del Nevada è rimasto fuori della

3 http://www.voxeu.org/article/banking-union-if-ireland-were-nevada
gestione della crisi – se non subendo le conseguenze economiche della fine del boom edilizio, ma questo è un altro discorso – mentre lo stato irlandese ha dovuto farsi carico del salvataggio delle proprie banche entrando a sua volta in crisi (per cui la crisi bancaria si è trasformata in crisi sovrana). In paesi come la Spagna (anch’essa vittima di un boom edilizio) e l’Italia (dove le banche sono comunque in difficoltà per gli effetti della crisi) i fondi LTRO a tre anni sono stati, come visto nel capitolo 6), ampiamento impiegati dalle banche per sostenere il debito sovrano. Questo ha perfezionato un circolo vizioso, un abbraccio mortale, fra Stati in crisi per aver sostenuto banche in difficoltà, e le medesime banche che sostengono Stati in difficoltà. Spezzando da principio ogni coinvolgimento dello stato locale nella crisi bancaria, il modello americano evita questa situazione.

### Banking union: Ireland vs Nevada, an illustration of the importance of an integrated banking system

An integrated banking system saved Nevada after a local real estate boom turned to bust. Without an integrated banking system, the same wasn’t true of Ireland. This column argues that comparing Ireland and Nevada shows that banking union is far more important for Europe than current proposals of fiscal union. And, in the absence of a proper banking union that covers losses, it seems ever more likely that Europe will be pushed back towards nationally segmented financial markets.

The Eurozone crisis has demonstrated how an insolvent sovereign can destroy a national banking system, Greece, but also how an insolvent banking system can almost sink the sovereign – Ireland and Spain.

### Localised real estate boom and bust

Local real estate booms and busts are a recurring phenomenon. The US has had its fair share, and its experience provides a useful lesson for Europe. Real booms of the last decade were very localised on both sides of the Atlantic. In the Eurozone, the overbuilding of houses on a large scale really only occurred in Spain and Ireland. Similarly, in the US, a handful of states accounted for a very large share of the subsequent losses on mortgage lending. One of these states, Nevada, is rather similar in size to Ireland.

### A natural experiment

Thus, we have, by coincidence, something close to a natural experiment; two similar regions which both experience a local real estate boom and bust, but within a very different federal system.

Ireland and Nevada are rather similar in several important respects (cf. Table 1). They have similar populations (2.7 to 4.5 million) and similar levels of GDP ($120-200 billion). Most importantly, they both experienced an exceptionally strong housing boom and bust. The result of
the same boom-bust cycle for the real economy can be seen in the unemployment rate, which followed an almost identical pattern, as shown in Figure 1.

**Table 1.** Ireland and Nevada compared

<table>
<thead>
<tr>
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<th>Nevada</th>
<th>Ireland</th>
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<tbody>
<tr>
<td>Population (in million, 2011)</td>
<td>2.7</td>
<td>4.5</td>
</tr>
<tr>
<td>GDP (in $ billion, 2011)</td>
<td>120</td>
<td>200</td>
</tr>
<tr>
<td>Change in GDP (2007-2010)</td>
<td>-5.3%</td>
<td>-17.6%</td>
</tr>
<tr>
<td>Average net migration rate since ‘bust’ (2008) as % of total population</td>
<td>0.32%</td>
<td>0.09%</td>
</tr>
<tr>
<td>Unemployment rate (2011)</td>
<td>13.5%</td>
<td>14.4%</td>
</tr>
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*Sources:* Eurostat and BEA, US Census Bureau.

**No bail out in Nevada**

However, there is one fundamental difference between the two. When the boom turned to bust, Nevada did not experience any local financial crisis and the state government did not have to be bailed out. This might the key reason behind the large difference in the evolution of GDP, which fell much more in Ireland.

The key difference between Nevada and Ireland is that banking problems in the US are taken care of at the federal level – remember, the US is a banking union – whereas in the Eurozone, responsibility for banking losses remains national.

Local banks in Nevada experienced huge losses, just like in Ireland, and many of them became insolvent, but this did not lead to any disruption of the local banking system as these banks were seized by the Federal Deposit Insurance Corporation (FDIC), which covered the losses and transferred the operations to other, stronger banks. In 2008-09, the FDIC thus closed 11 banks headquartered in the state, with assets of over $40 billion, or about 30% of state GDP. The losses for the FDIC in these rescue/restructuring operations amounted to about $4 billion.

**Figure 1.** The boom/bust cycle in unemployment: Ireland vs Nevada
Sources: Eurostat and US Bureau of Labour Statistics (BLS).

Other losses were borne at the federal level when residents of Nevada defaulted in large numbers on their home mortgages. The two federal institutions that re-finance mortgages have lost between them about $8 billion in the state since 2008.

The federal institutions of the US banking union thus provided Nevada with a ‘shock absorber’ of about 10% of GDP, not in the form of loans, but in the form of an ex-post transfer. That is, losses of this magnitude were borne at the federal level. Against this transfer one would of course have to set the insurance premiums paid by banks in Nevada prior to the bust. But they are likely to have been an order of magnitude smaller.

The significance of ‘foreign banks’ in Nevada

Moreover, a lot of the banking business in Nevada was (and still is) conducted by ‘foreign’ banks, i.e. by out-of-state banks, which just took the losses from their Nevada operations on their books and could set them against profits made elsewhere. This is another way in which an integrated banking market can provide insurance against local financial shocks. One might call this a ‘private’ banking union, or a truly integrated banking market. It is impossible to estimate the size of this additional shock absorber, but the losses absorbed by out-of-state banks might very well have been at least as large again as the ones borne by the federal institutions. The total write downs of the large US banks which operate across the entire US were about $440 billion, twice as much as the $220 billion of losses of the three official institutions (FDIC, Fannie and Freddie).

The significance of foreign banks in Europe?
In Europe, this ‘private’ banking union operates only in some cases. It is of paramount importance only for the smaller Baltic EU countries, whose banks are owned to a large extent in foreign hands. Estonia, Lithuania and, to a lesser extent, Latvia thus benefited from a similar protection against losses provided by the Scandinavian headquarters of their local banks. By contrast, most of the real estate lending in Ireland (and in Spain) had been extended mostly by local banks so that most of the losses remained local, and without any federal institution to provide insurance.

In need of shock absorbers

The comparison between Nevada and Ireland thus illustrates the shock-absorbing capacity of an integrated banking system and a banking union. For Nevada, the banking union resulted in a transfer worth over 10%, possibly up to 20%, of its GDP.

Nevada is admittedly an extreme example of the housing boom and bust. Nevertheless, this example illustrates the general point that a banking union can provide more shock-absorbing capacity than could ever be provided by any ‘fiscal capacity’ (v. cap 1 sopra) that is currently being contemplated for the Eurozone.

‘Banking union’ is more important than a ‘fiscal union’

A first lesson is that ‘banking union’ is more important than ‘fiscal union’ in Europe. Another lesson is that the current state of integration in the Eurozone represents the worst imaginable combination:

- Any losses in the banking sector fall on the national government, which are overwhelmed when a strong local boom turns into bust.

- The euro made the wholesale liquidity and funding market cross-border, so a system-wide liquidity crisis arises whenever a local banking system becomes insolvent.

The system cannot stay as it is. Europe must either move forward to a full banking union, or it will be pushed backwards into nationally segmented financial markets. At this present moment, the tendency towards the latter is clear. Unless a more integrated system is put in place, financial integration will have to move backwards.

Note

1 The experience of Washington Mutual (WaMu) constitutes a somewhat special case. The biggest bank to have failed in US history, a mortgage specialist, WaMu had its headquarters in Nevada (although the name suggests otherwise) and some small operations there. However, its failure did not lead to any local losses as Washington Mutual was seized by the FDIC and its banking operations were sold for a very low sum to another large US bank (JP Morgan Chase) – but without any loss for the FDIC. Such an ‘overnight’ operation would have been impossible in
Europe where no euro area wide institution would have carried through a cross border takeover of this size. Moreover, WaMu received about $80 billion in low-cost financing from the US Federal Home Loan Bank. Irish banks received massive amounts of low-cost emergency liquidity assistance from the European Central Bank, but the Central Bank of Ireland had to guarantee these loans, which was not the case for the State of Nevada for with respect to any bank in Nevada.

2 It appears, however, that the larger UK banks, like RBS had also substantial operations in Ireland where they had to write off of about 8 billion £. Unfortunately it is not possible how much resulted in actual losses and what part of any losses was incurred in the Republic of Ireland and what part in Northern Ireland.

Da ricordare, infine, che in un genuino stato federale l’impatto sulla popolazione locale della fine del boom edilizio e della ristrutturazione bancaria (che naturalmente avviene) è attenuato dai meccanismi fiscali semi-automatici: vedendo scemare reddito ed entrate fiscali, il Nevada paga meno imposte federali ricevendo più sussidi (ai disoccupati ecc.). I costi della ristrutturazione bancaria – assorbimento delle perdite, ricapitalizzazione o vendita delle banche ecc. – sono sostenuti a livello federale. Inoltre negli SU molte banche sono strutture ramificate in tutta l’Unione, sicché crisi locali sono più facilmente assorbite dalle banche. Le banche europee sono più nazionali, per cui subiscono in pieno una crisi locale.

In una UM composta di stati nazionali, una crisi bancaria va dunque necessariamente affrontata a livello federale. L’integrazione finanziaria europea non è stata invece seguita da una armonizzazione dei meccanismi di sorveglianza e risoluzione delle crisi bancarie.

### 7.3. Il “doom loop” fra Stati e banche


**Why sovereigns and banks are intertwined**

*Channels transmitting sovereign risk to banks.* – Sovereign risk affects banks through several channels. Some work via the assets side of banks’ balance sheets. A deterioration/improvement in a government’s creditworthiness, as perceived by the markets, may cause losses/gains on banks’ portfolios of sovereign securities and may also affect banks’ standing in relation to their loans to the government. In this sense, sovereign exposures are not conceptually different from claims on any other debtor, but they are often substantial, typically reflecting large holdings of domestic government debt (direct exposure to foreign sovereign debt is ordinarily limited).
A further factor can be traced to current regulations, which give claims on the government preferential treatment over those on private borrowers. First, national authorities may (and de facto do) choose to apply reduced risk weights to banks’ claims on the sovereign …

In the EU, neither the old regulations nor the CRD IV impose a general zero risk weight on sovereign debt. However, partly reflecting the Basel II framework, de facto zero risk weights are granted to most of the debt issued by EU sovereigns, including those in the euro area.

The impact of sovereign strains on bank funding conditions is not only in terms of credit risk, but also in terms of liquidity/funding risk. Since government bonds are typically used as collateral, e.g. in repos, a fall in their price can trigger margin calls or larger haircuts, thus reducing the liquidity that can be obtained via a given nominal amount of sovereign paper. Related to this, in most countries government paper is typically given preferential treatment as collateral in central bank operations. It is also assigned an important role in the Basel III liquidity framework via the so-called liquidity coverage ratio. The indicator relies on the concept of high quality liquid assets, which include government paper…

As a result of these mechanisms, and of competition (government paper is an obvious alternative to bank products), changes in sovereign yields tend to affect the availability and cost of bank funding. There is now substantial evidence about the importance of this form of transmission during the recent sovereign debt crisis: the effect is larger and faster on the cost of wholesale funds, but it is gradually transmitted to retail sources as well.

Albertazzi, Ropele, Sene and Signoretti (2012) find that a rise in the spread between the Italian and German 10-year sovereign rates is followed by an increase in the cost of wholesale funds and of certain forms of retail funding for Italian banks, with a larger impact during the sovereign debt crisis. Similar estimates are provided by Zoli (2013). The Italian case is interesting because the direction of causality is clear – initially the instability of the sovereign affected domestic banks, and not vice-versa.

Factors transmitting bank risks to the sovereign. – The direction of causality can also be reversed: a banking crisis can trigger a surge in sovereign risk. Indeed, there is evidence that banking crises tend to lead sovereign crises (Reinhart and Rogoff (2010)). A financial crisis may require the government to support banks and other financial institutions…. In late 2008-early 2009 the magnitude of this support was unprecedented (…). The impact on the public finances typically comes from the recession and the fiscal expansion typically implemented to deal with it. In some cases (Ireland, Iceland, and more recently Cyprus) the size of the banking problem was so large as to jeopardize the sovereign.
Interactions. – Once a shock has set in motion a weakening of the sovereign, or of the banking system, a self-reinforcing feedback loop can easily develop. There is ample evidence that tensions in the sovereign debt market affect banks’ funding conditions, and thence lending to domestic households and firms.

7.4. La necessità di una Unione Bancaria europea

Nel summit europeo del giugno 2012 l’UE sembrò prendere coscienza della necessità dell’UB, con particolare riguardo al caso spagnolo, ben più esplosivo per dimensione di quello irlandese. In quell’occasione il vertice approvò un prestito di fondi dell’European Stability Mechansism (ESM, v. cap 6) per la ristrutturazione di alcune banche spagnole (in particolare di Bankia) di 60 miliardi di euro. Il prestito era però al governo spagnolo per cui, in verità, non si spezzò come verbalmente auspicato l’abbraccio mortale fra governo locale e banche nazionali. Non fu un buon inizio. Secondo alcuni, dopo che nell’agosto 2012 Draghi letteralmente salvò l’euro con l’annuncio dell’OMT, la Germania si dimenticò dell’impegno del giugno 2012 e l’UB che è lentamente scaturita è, a detta di molti, una pallida copia di una vera UB.

7.4.1. L’acronimia dei tre pilastri di una unione bancaria.

Una UB poggia su tre pilastri (che sono i medesimi di un sistema nazionale di supervisione e risoluzione delle crisi bancarie):


2) Un meccanismo di risoluzione delle crisi (Single Resolution Mechanism - SRM) che, sfortunatamente, si possono presentare nonostante la qualità della supervisione. Tale meccanismo deve fissare le regole sulla ristrutturazione delle banche inclusa l’individuazione delle figure che devono sostenere perdite e costi relativi alla ristrutturazione. Qui c’è la vexata questio della quota di costi che deve ricadere sui creditori delle banche (bail in) o sui contribuenti (bail out). Il coinvolgimento (bail in) della proprietà e dei maggiori creditori è necessario per evitare le tentazioni peccaminose. Accanto alla creazione di un SRM v’è dunque l’elaborazione di una

4 Per “risoluzione” si intende la procedura con cui un’autorità pubblica prende controllo di una banca in fallimento allo scopo di ristrutturarlarc o liquidarla.
legislazione comune (regole condivise) che fissi le modalità di risoluzione delle crisi bancarie. Un SRM dovrebbe essere inoltre accompagnato idealmente da:

3) Un sostegno finanziario (**backstop**) che assicuri da un lato i fondi necessari alla ristrutturazione delle banche. Idealmente esso dovrebbe includere un **Single Resolution Fund – SRF**. Si dovrebbe inoltre **includere anche** una forma di garanzia per i piccoli depositanti ritenuti meritevoli di protezione (**Deposit Guarantee Scheme - DGS**). Il sostegno finanziario dovrebbe essere adeguato per crisi di singoli istituti di credito che per crisi sistemiche.

Al riguardo si parla di un quarto pilastro che è il ruolo della BC come prestatore di ultima istanza (**lender of last resort**); questo riguarda tuttavia crisi di liquidità e non di solvibilità delle banche. Come visto nel capitolo 5, le banche ricorrono ordinariamente (sebbene in maniera più massiccia durante la presente crisi) a strumenti di creazione di liquidità della BCE contro titoli che fungono da collaterale. In assenza di collaterale accettabile (eligible) per gli standard posti dalla BCE, le banche possono ricorrere anche alla finestra della Emergency Liquidity Assistance (ELA) presso la propria banca centrale.

**7.5. La logica dei pilastri**

Un UB completa tale da spezzare l’abbraccio mortale fra crisi bancaria e crisi di stati sovrani privi di una propria BC (dunque impossibilitati a ricorrere alla **printing press**) richiede infatti che tutti e tre i pilastri siano presenti poiché si presuppongono vicendevolmente.

Un documento dell’IMF ([http://www.imf.org/external/pubs/ft/sdn/2013/sdn1301.pdf](http://www.imf.org/external/pubs/ft/sdn/2013/sdn1301.pdf)) riassume la natura dei tre pilastri e la loro connessione. In sintesi il SSM serve a prevenire le crisi; esso è dunque un presupposto per il SRF (e per il DGS) a cui gli stati membri sono disposti a partecipare solo se v’è stato un comune e rigoroso meccanismo di sorveglianza volto, in particolare, a impedire forme di **moral hazard** suggerite proprio dall’esistenza di un SRF; quest’ultimo presuppone pure un SRM, cioè regole comuni di risoluzione delle crisi che presuppongano, magari, anche forme di **bail in** volte a scoraggiare il moral hazard.

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**The logic of a union.** A single regulatory and supervisory framework would help contain systemic risks and curb the moral hazard attendant with common backstops and safety nets; a single resolution mechanism with adequate backstops would isolate and address pockets of weakness; and a common safety net would help prevent retail deposit runs that could overwhelm the capacity of any one country.

**Regulation and supervision.** Regulation involves rules to prescribe what banks must or may not do, while supervision verifies and enforces such rules and adds broad discretionary powers to control undue risk-taking and ensure adequate capitalization. Both seek to complement market
discipline imposed by bank creditors and shareholders. The SSM would facilitate a systemic approach of supervision to risk management across all countries and help identify and prevent the buildup of excessive risk concentrations. It would enforce regulations consistently across the banking union, reduce national distortions, and better address cross-border issues and fragmentation. It could be less subject to capture by local interests (if not to broader ones); e.g., Agarwal et al (2012) show that, in the United States, federal regulators are significantly less lenient than state regulators (although the United States also has federal backstops in place).

...  

**Resolution and safety nets.** An effective resolution mechanism would facilitate intervention in a timely manner to address weak banks and prevent contagion across the system. A single resolution authority would support market discipline and should minimize the costs of failing individual banks, although in the case of systemically important institutions cost minimization needs to be considered at the level of the system. Together with a common safety net that comprises deposit insurance (to provide certainty to retail depositors) and a lender of last resort (for emergency liquidity), it would enhance the capacity to cope with shocks that may overwhelm any individual economy. A credible single resolution framework and safety net would address coordination and burden-sharing problems related to crossborder failures and internalize associated externalities. By moving responsibility for potential financial support from the national to the supranational level, they would decouple banks’ prospects from that of sovereigns with weak finances, and protect individual sovereigns from banking sector weaknesses. They would also limit the potential burden on taxpayers, including by —bailing in creditors as necessary.

Il IMF sottolinea che una efficace UB implica tutti e tre i pilastri:

Progress is required on all elements, and the governance of the banking union must provide the right incentives and promote timely decision making, lest national interests prevail and effectiveness is compromised.

A single supervisory mechanism (SSM) without a common resolution and safety net framework will do little to break the vicious circle between banks and sovereigns and stabilize the euro area. In particular,

→ lack of a credible resolution framework would hamper the effectiveness of the SSM, and impede timely decision making by leaving national authorities to deal with the fiscal consequences of others’ supervisory decisions.

→ Bank recapitalization as well as resolution and deposit insurance mechanisms would lack credibility without the assurance of fiscal backstops and burden-sharing arrangements.
Conversely, common safety nets and backstops without effective supervision and resolution would break sovereign-bank links, but risk distorting incentives, reinforcing tendencies for regulatory forbearance, and shifting losses to the euro-area level. Effective control must accompany, or precede, risk or burden sharing.

Avrebbe una UB di questo tipo impedito la crisi? Il IMF sostiene che una UB avrebbe con il SSM impedito l’esposizione a determinati rischi di certi sistemi bancari nei paesi periferici (Spagna, Irlanda, Cipro), e successivamente con un SRM e un SRF impedito la spirale fra crisi bancaria e sovrania. (p. 8).

Much of this experience comes from the United States, where a special resolution regime for banks was introduced decades ago and was reformed following the 1980s Savings and Loan (S&L) crisis. In contrast, most EU countries did not introduce special resolution legislation until the current crisis. The US resolution regime for banks is administered by the Federal Deposit Insurance Corporation (FDIC), a federal agency created in 1933 and headquartered in Washington DC. In the recent crisis it has operated reasonably well, and has overseen the resolution of close to 500 banks, including very large ones such as Washington Mutual (which had more than US$ 300 billion in assets) in late September 2008, without largescale disruption in spite of significant losses imposed on creditors including senior unsecured ones. The Dodd-Frank Act of 2010 extended the resolution authority of the FDIC to systemically important non-bank financial institutions, a category that would have included firms that were judged ‘too-big-to-fail’ and were bailed out in 2008 (Bear Stearns, Fannie Mae, Freddie Mac, AIG and GMAC) as well as Lehman Brothers. In April 2011, the FDIC published an analysis that suggests that, had the Dodd-Frank Act been in place in September 2008, it would have been possible to resolve Lehman Brothers in an orderly manner, as was the case for depositary banks (FDIC, 2011).

A queste motivazioni per una UB va anche aggiunta quella della trasmissione della politica monetaria all’insieme dell’unione che sarebbe ostacolata laddove venisse meno l’integrazione finanziaria e il buon funzionamento del mercato interbancario complessivo:

“A [further] reason why banking union is essential to monetary union is that it supports the implementation of the single monetary policy. The even transmission of monetary policy across all member countries of the euro area requires a level of financial integration that
ensures well-functioning cross-border money markets. Yet we have seen during the crisis that without a euro area-wide approach to financial governance, financial markets can end up re-nationalising.”

(Vitor Constancio, vice-President BCE, http://www.bis.org/review/r131203b.htm)

7.6. Cosa ha fatto l’Europa in direzione della UB?

Il cammino europeo nel predisporre una UB è stato particolarmente intricato visto il continuo disaccordo fra, da un lato, la Francia e gli altri paesi periferici e, dall’altro lato, la Germania e i suoi satelliti. Ora il quadro è sufficientemente chiaro, anche se lasciamo ad altri insegnamenti più specialistici l’approfondimento tecnico-legislativo.

7.6.1. SSM affidato alla BCE

La storia comincia col vertice europeo del 29 Giugno 2012 quando si decide di creare un SSM e fa la famosa affermazione: (“We affirm that it is imperative to break the vicious circle between banks and sovereigns”), ribadita nei vertici di ottobre e dicembre. Da osservare che l’affermazione avviene in un momento di crisi acuta per Spagna e Italia. Come al solito la UE sembra fare dei passi in avanti in momenti simili (magari per arretrare quando le acque si sono calmate). Infatti l’impegno lì stipulato sembra essere stato successivamente in gran parte disatteso.

L’SSM viene affidato alla BCE, Questa ha competenza sulle banche con attività (assets) superiori a 30 miliardi di euro, circa 130 banche (15 italiane) che rappresentano però l’80% delle attività bancarie dell’EZ. La ECB ha condotto dal novembre 2013 un esercizio di valutazione sui bilanci bancari volto a scoprirne le criticità, e uno stress test assieme alla EBA (European Banking Authority) volto a valutarne la resistenza a shock. Al termine, nel novembre 2014 la ECB ha assunto il ruolo di SSM. Nei mesi successivi emerse una preoccupazione della BCE circa l’effetto destabilizzante di eventuali criticità bancarie nazionali senza un SRM europeo ben definito. Nonostante che il SRM sia stato successivamente definito, tali preoccupazioni non sono certamente svanite data la limitatezza del backstop finanziario predisposto.5

5 Un problema di fondo che determinò una perplessità della Germania ad affidare il compito di vigilanza alla BCE è stata la possibile sovrapposizione con la politica monetaria: questa può esser influenzata dall’attività di supervisione, nella misura in cui la salute dei bilanci bancari può dipendere dalla politica monetaria. Con riguardo alla situazione corrente, va ricordato che la BCE ha stimolato le banche dei paesi periferici attraverso cospicue iniezioni di liquidità a buon mercato ad acquistare cospicue quantità di titoli pubblici non più finanziati dagli investitori esteri (cap.5). Questo potrebbe implicare che se la BCE nella sua attività di valutazione svolta dal novembre del 2013 e nella successiva attività di vigilanza ritenesse questi attivi ad elevata rischiosità, tali da incidere sulla solidità patrimoniale delle banche, essa potrebbe essere indotta a misure di sostegno dei titoli pubblici (si veda http://www.lavoce.info/vigilanza-bce-banche-italiane/) A norma di
Il vertice del 29/6/2012 incluse fra le competenze dello European Stability Mechanism (v. capitolo 6) anche quello della ricapitalizzazione delle banche, una volta che il SSM fosse entrato a regime: “When an effective single supervisory mechanism is established, involving the ECB, for banks in the euro area the ESM could, following a regular decision, have the possibility to recapitalize banks directly.” (IMF 2013: 20). Questo del ruolo dell’EMS è oggetto di controversia su cui torneremo. Nel luglio 2012 l’EMS intervenne con 60 miliardi di euro di prestito al governo spagnolo a sostegno della ricapitalizzazione di alcune banche spagnole (il prestito era sino a 100 miliardi). Attenzione tuttavia, il prestito fu al governo, non alle banche, sicché non si spezzò l’abbraccio mortale e la promessa di rompere il “doom loop” rapidamente tradita.

Così commentano due autorevoli osservatori, Posen e Vernon: “An early disappointment came in mid-September 2012, when the finance ministers of Finland, Germany, and the Netherlands issued a joint statement opposing any direct bank recapitalization by the new European Stability Mechanism to bridge "legacy" capital gaps, i.e. losses on investments made by banks before the banking union. The statement reversed the prior agreement by those same countries’ at the European Union's June 2012 summit that the ESM would directly recapitalize Spanish banks, if only retroactively. That reversal understandably raised doubts about the northern euro members' commitment to the entire banking union project. However, thanks to the announcement by the ECB of its Outright Monetary Transaction (OMT) commitment, as well as the justified belief that although legacy losses were finite, banking union would be forever, investor sentiment shifted to a new equilibrium that discounted the likelihood of a euro area collapse. (da http://piie.com/publications/opeds/oped.cfm?ResearchID=2627).

7.6.2. La Banking Recovery and Resolution Directive

Nei successivi passaggi costituiti da vertici europei e contrattazioni col Parlamento europeo venne messa a punto Banking Recovery and Resolution Directive (BRRD) che delinea le regole d’intervento nelle crisi bancarie in relazione al SRM. Cominciamo dunque con la BRRD sul quale nell’aprile 2014 il Parlamento europeo, poco prima della fine della legislatura, ha raggiunto un accordo finale con Commissione e Stati membri.

La direttiva è importante perché fissa le regole per la risoluzione delle crisi bancarie dando certezza all’attività della BCE come SSM – la BCE deve infatti avere un quadro certo delle conseguenze della sua azione volta a scoprire situazioni di insolvenza – e perché è preliminare alla costituzione di una SRM.

Trattati, comunque, il ruolo della BCE come SSM viene subordinata all’obiettivo della stabilità dei prezzi.
Elemento caratterizzante di questa direttiva è l’imposizione dei costi dei salvataggi sui creditori (*bail in*) rispettando i depositi sotto i 100 mila euro e alcune altre categorie (come le passività a breve nel mercato interbancario, un altro modo per tenere locale il salvataggio laddove i prestiti interbancari fossero internazionali). Sebbene venga prevista una discrezionalità per i singoli paesi nel tarare le misure a sfavore dei creditori, vi sono dei limiti. L’intervento dell’ESM è solo di ultima istanza, preceduto da misure a sfavore dei creditori (shareholders e bondholders) e da sostegni dei governi nazionali.

La direttiva entra in vigore dopo gli stress-test che la BCE condurrà nel 2014 preliminarmente all’assunzione del ruolo di SSM.

A regime, la ristrutturazione e ricapitalizzazione delle banche prevede tre passaggi:

i) Nel primo stadio perdite almeno sino all’8% delle attività totali della banca devono essere cancellate colpendo azionisti e creditori (obbligazioni subordinate e depositi delle grandi imprese)

ii) Raggiunto l’8%, un ulteriore 5% di perdite può essere coperto con fondi provenienti da un “fondo di risoluzione” o pubblici, ma solo in circostanze straordinarie e se il bail-in ha raggiunto i fondi esenti (sotto i 100 mila euro).  

6 Così recita la Q&A dell’UE: “Bail-in would a priori apply to any liability which is not excluded. In exceptional circumstances and where strictly necessary for financial stability, bail in could be discontinued upon reaching 8% of total liabilities including capital (or alternatively 20% of risk weighted assets in specific situations). After this, resolution funds could assume 5% of the losses. Public funds could either be provided to give limited backup support to the resolution fund at this point or, in extraordinary circumstances, directly to cover losses after the 5% contribution from the resolution fund and if bail-in has reached eligible deposits. Only in the scenario of severe systemic stress could public funds replace the resolution fund immediately, but only after bail-in up to 8% of total liabilities….. Shareholders and creditors of the bank under resolution should bear the cost of the bank failure in the first instance. Recapitalisation should be financed primarily by these stakeholders. However, the BRRD agreement provides that after these stakeholders have borne sufficient losses (i.e. 8% of the liabilities of the bank under resolution) through write-down or conversion, in exceptional circumstances the resolution financing arrangement may bear remaining losses but only up to 5% of the bank's liabilities.

This restrictive approach is important to combat the moral hazard that might arise with the creation of a large fund. Consequently, the main use of the resolution funds will be limited to, for example, providing loans to a bridge institution, purchasing specific assets of an institution under resolution, guarantee certain assets or liabilities of the institution under resolution, or in exceptional circumstances – as mentioned above - contributing to loss absorption by replacing creditors who would have been bailed in…”


iii) Solo nel terzo stadio (dunque dopo che perdite pari al 13% = 8+5 del totale degli assets della banca sono stati coperti con coinvolgimento dei creditori (bail in) o ricapitalizzazione diretta dello stato locale, può l’EMS intervenire direttamente nella ricapitalizzazione. Le regole dell’intervento ESM sono stringenti: che lo stato membro non sia in grado di ricapitalizzare da solo; che la banca sia sistemica e ponga un pericolo per la stabilità dell’euro.  

I bond subordinati sono titoli compresi nel capitale di vigilanza (Tier 1 o Tier 2 capital) i cui rendimenti — più alti di quelli degli altri bond — sono dovuti al loro rischio maggiore. In caso di crisi della banca che porti alla sua “risoluzione”, cioè al bail-in che scaterrà anche in Italia dal 1° gennaio, se a coprire le perdite e ricapitalizzare la banca non bastassero le azioni e gli altri strumenti di capitale, subito dopo — e prima dei bond senior e dei conti correnti oltre i 100mila euro — saranno coinvolte le obbligazioni subordinate, convertendole in azioni e riducendone o azzerandone il valore.  

In caso di bail-in, fino al 31 dicembre 2018 le obbligazioni senior e i depositi superiori ai 100mila euro avrebbero le stesse tutele, mentre dal 1° gennaio 2019 i depositi oltre i 100mila euro sarebbero più “tutelati” rispetto ai bond senior. Ma i bond subordinati saranno invece coinvolti in eventuali bail-in sin dal 1° gennaio 2016 e forse anche prima, in caso di salvataggi.


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8 “ESM made the decided "direct bank recapitalization" framework operational starting from December 2014, as a new novel ultimate backstop instrument to apply for systemic banks in their recovery/resolution phase, if such banks will be found in need to receive additional recapitalization funds after conducted bail-in by private creditors and regulated payment by the Single Resolution Fund [39]. In this way, the primary backstop to patch future uncovered recapitalization needs of a failing systemic bank will be provided by bail-in of private creditors along with contributions from the Single Resolution Fund (as regulated by the Bank Recovery and Resolution Directive), while the ESM "direct bank recapitalization" instrument only will be needed as an "ultimate backstop" for the most extreme cases where the primary backstop funds are found to be insufficient.” (informazione da Wkipedia che va controllata)
7.6.3. Il SRM


Giurisdizione: The SRM will concern all banks in the Member States of the banking union. From 2016, the European level (the Single Resolution Board) will have jurisdiction in terms of resolutions for the 128 banks under direct ECB supervision and cross-border groups (i.e. around 250 institutions in total). The smallest banks will remain under the jurisdiction of national resolution authorities, but under the control of the Resolution Board. So from the moment the resolution of a small bank requires the use of the fund, the Resolution Board will automatically be granted jurisdiction to establish resolution plans. Likewise, the Board will continue to have a say on all plans enacted by the national authorities and can intervene if need be.

Procedure finanziarie: The SRM will apply the provisions laid down in the Bank Recovery and Resolution Directive (BRRD) to the letter: from 2016, a bank placed in resolution in the framework of the SRM will not be able to receive external aid (from the resolution fund or national budgets) so long as 8% of its liabilities have not been subject to a bail-in. And if certain liabilities are excluded from the bail-in once the 8% ratio has been reached, the compensation from the resolution fund will be limited to 5% of its liabilities. Government aid can be used only after these initial steps.

Natixis nota poi come sulla base di queste regole quasi tutti i 320 miliardi di euro che i governi europei hanno versato alle proprie banche dal 2008 sarebbero stati versati dal settore privato. Questo sembra però sottovalutare la ragione per cui c’è un bail out e non un bail in, ovvero impedire che i fallimenti bancari abbiano effetti domino sul resto del sistema finanziario. La figura R mostra come sia stata la Germania a sostenere le proprie banche, ben più di Francia e Italia.

We need to keep in mind that if the provisions of the BRRD could have been applied from 2008, virtually the entire EUR 320 bn injected in troubled banks by euro-zone governments between 2008 and 2012 would have been covered by the private sector.

9 Si veda anche https://www.finriskalert.it/?p=530
Backstop (Single Resolution Fund): Under the SRM, the SRF will have a common backstop from the member states, but only when it has reached its target size (EUR 55 bn), i.e. after 8 years. During this transition period, a credit facility will be put in place, enabling the SRF to borrow in the markets by offering its future income (the contributions from the banks) as collateral - which will enable it to potentially have an additional EUR 55 bn at its disposal from the first year, on top of the liquidity already available. [Therefore t]here will definitely be a single resolution fund… and not a network of national funds as Germany and some of its allies initially insisted on. The SRF will concern all banks in the 18 banking union member states and will become operational from 2016. Its firepower has been set at 1% of the deposits eligible for deposit guarantee mechanisms after eight years of build-up, i.e. around EUR 55 bn.

The objective of the SRF is that the cost of a resolution should no longer be shouldered by governments and central banks (ELA), but directly by the banking industry. It will have three core tasks in this respect: 1) financing resolution tools (providing capital to a bad bank, financing of a bridge institution, asset purchases); 2) financing the banks’ critical activities during their resolution (providing guarantees for new issues, provision of liquidity); 3) absorbing losses and recapitalising, to the tune of 5%, the bank’s liabilities, only after the shareholders and creditors have been subjected to a bail-in amounting to 8% of the liabilities.
Although the SRF will be a single fund, it will be "compartmentalised" during its build-up phase (2016-2023), with each banking union member state having its own compartment funded by "its" banks. The contributions (made up of a fixed part, which applies to all banks, in addition to a variable part determined according to each bank’s risk profile) will be collected by the national authorities and then passed on to the SRF. During the build-up period, the cost linked to resolutions will first and foremost be covered by the compartment of the member state (in what proportion is still unclear) in which the bank is placed in resolution. If the national compartment were to be insufficient, 40% of the remaining funding will be mutualised from the first year, 60% the second, 70% the third and so on until the SRF is completely mutualised after 8 years (Diagram 1). The transfer of contributions as well as the mutualisation of the compartments will be governed by a new intergovernmental treaty.

If there are still needs to be covered when the common pot is empty, the Single Resolution Board (SRB), meeting in plenary session (acting by a two-thirds majority, representing 50% of the resources) will be able to require extraordinary contributions from the banks, decide on transfers between compartments and allow the SRF to borrow in the markets. The latter option will be made easier once the SRF has a common backstop from the member countries, which they have undertaken to put in place within 8 years, once the target size has been reached. Until then, the SRF will definitely be able to use the banks’ future contributions as collateral for raising funds.

Nota Natixis che: The bail-in principle does not entirely solve the "too big to fail" problem: access to the public sector will undoubtedly remain necessary for the largest banks. Hence the need for euro-zone ministers of finance to rapidly agree on direct recapitalisations by the ESM.

Governance del SRM: Questo è un aspetto delicatissimo ed è stato infatti oggetto di molta controversia. I meccanismi del SRM devono infatti essere assai rapidi: tipicamente la notizia di una banca dichiarata insolvente sulla base di una segnalazione della BCE deve essere comunicata il venerdì sera a mercati chiusi; si hanno poi 48 ore di tempo per procedere alla risoluzione in modo che alla riapertura i mercati siano tranquilli. La rapidità delle procedure è tuttavia in conflitto con la delicatezza delle scelte, in particolarì se banche importanti sono implicate (a maggior ragione se di Stati importanti).

For governance to be optimal, the decision-making process must be protected from any kind of political interference that could lead to unequal treatment of banks placed in resolution. It must also make it possible to rapidly trigger a resolution procedure, ideally in 48 hours (a weekend), to prevent any disruptive impact on the markets.

The drafting of the plan is the most sensitive stage as this is where the tools to be used in the resolution are determined, including the use of a bail-in and the resolution fund. Any political
interference at this level may therefore significantly infringe on the principle of equal treatment. The problem with the SRM is that this will be the responsibility of an authority that, all things considered, is highly politicised: in addition to five permanent members (including the executive director) who will be appointed based on a recommendation from the Commission, the Single Resolution Board (SRB) will bring together each country’s resolution authorities (18 representatives).

The risk of this collegial organization is that national representatives may seek to defend in priority the interests of "their" banks. Indeed, having considered the economic, political (electoral) and budgetary costs (banks buy sovereign debt) involved when resolving a bank, it is doubtful that governments remain inactive when the fate of a national champion will be at stake. Especially that at the national level, there will be no legal obligation to give the resolution jurisdiction to an independent body; this may be the national central bank, an authority created ex nihilo, but also the Ministry of Finance.

To adopt a plan, the SRB will meet under two formats. In executive session, the risk of national interference will be limited: only the authorities directly affected by the issue under discussion will be present and the permanent members will make the final decision on the plan. Conversely, when the 23 members meet in plenary session, the permanent members will de facto find themselves in a minority. The adoption of the plans will then be exposed to political arrangements between countries.

Indeed, a collusion of interests could easily arise between the authority whose bank will be placed in resolution, and other authorities whose banks are counterparts – notably when discussions will be around exempting some liabilities (e.g. senior debt) from bail-in (beyond the 8% threshold). These arrangements seem all the more likely that the plenary session voting rules favour the largest contributors to the SRF, i.e. the large euro-zone economies. Therefore, creditors of a bank from a small country could risk less favorable treatment than those of a bank from a bigger country with influence in the SRB.
For each resolution, the amount of funds drained from the SRF will determine which SRB session will have the authority to formulate a plan (si veda la tavola sopra). Resolutions requiring less than EUR 5 billion in capital or less than EUR 10 billion in cash contributions from the SRF will be decided by the executive session. The others will be decided by the plenary session, but only at the request of at least one of its members - an opportunity that countries will not hesitate to seize if their banks are affected by the case in question. Although they are not very high, these thresholds must nevertheless be measured by the yardstick of what the cost of a resolution will be in 2016 (definitely lower than in 2008-2009, for the same reasons as discussed above). It is therefore possible that the executive session actually will deal with most resolutions in the medium term, which is positive.

But all in all, the member countries clearly keep their influence on the most costly resolutions (the largest banks). The same holds for the use of the SRF in the event of repeated resolutions. The agreement actually states that when the net amount of funds mobilised by the SRF reaches EUR 5 bn over a period of 12 rolling months, the plenary session becomes competent to assess the use of resolution tools, including the use of the SRF, and gives the executive session directives in formulating plans. As a bank failure never comes alone, it then remains to be seen whether the decisions made by the plenary session will ensure equal treatment for the banks, whether they are located in Frankfurt or in Nicosia. For the time being, this is highly debatable. How is a resolution procedure under the Single Resolution Mechanism (SRM) triggered?

The SRB meets after notification by the ECB (supervisor) that a bank is insolvent or about to become insolvent, or at its own initiative (after informing the ECB thereof). The SRB then seeks to assess whether a systemic risk exists (is it in the public interest to place the bank in resolution?)
and whether a private-sector alternative is possible. If these two conditions are met (the bank is systemic and there is no other solution), the SRB adopts a resolution plan that includes the resolution tools to be used as well as the SRF’s resources to be applied. The competent SRB session (executive or plenary) is determined by the amount the SRF will have to disburse for this resolution. Once the resolution plan is adopted, the procedure is automatically triggered after a 24-hour period.

The national authorities in question then enforce the provisions of the plan, under direct supervision of the SRB (option 1 del diagramma sotto).

The Commission can nevertheless, during this 24-hour period, oppose and suggest amendments to the plan - the SRB then has 8 hours to include these amendments (option 2A del diagramma sotto). But if the Commission’s objection applies to the fact that it is preferable to liquidate the bank (its survival is not in the public interest), or to the need to revise the amount of resources that the SRF will have to disburse (by more or less than 5% of what is provided for in the plan), the time period within which it has to object is shortened to 12 hours (option 2B del diagramma sotto) and it is the Ecofin that then makes the final decision: if it does not give a decision within the deadline (at least 12 hours), the procedure is triggered on the basis of the initial plan (option 3A del diagramma sotto); if the objections are adopted (with a simple majority), the SRB must amend the plan within 8 hours (option 3B del diagramma sotto).
Così la Banca d’Italia riassume, in maniera un po’ agiografica, la BU europea:
La capacità dell’Unione bancaria di essere un fattore di integrazione e stabilizzazione dell’area dell’euro richiede la realizzazione di tutti e tre i pilastri…
Il primo pilastro – il Single Supervisory Mechanism (SSM) – consentirà una visione integrata a livello di area dell’euro delle vulnerabilità del sistema bancario, rafforzerà l’efficacia degli interventi preventivi, favorirà una competizione su basi di parità concorrenziale.
Il Meccanismo Unico di Supervisione vedrà agire in modo unitario la BCE e le autorità nazionali. La BCE, in collaborazione con le autorità nazionali, si occuperà in via diretta della vigilanza delle banche cosiddette significant; allo stato circa 120 grandi gruppi (di cui 13 italiani) che, sebbene in numero rappresentino solo il 3 per cento del totale delle banche attive nell’Eurozona, detengono oltre l’85 per cento degli attivi del sistema. Sulle altre 3.500 banche - cd. less significant - la vigilanza sarà condotta dalle autorità nazionali nell’ambito di linee guida uniformi stabilite dalla BCE, che all’occorrenza potrà avocare a sé i compiti di supervisione. La metodologia di controllo del SSM è stata definita attingendo alle migliori prassi di vigilanza nazionali; nell’impostazione di fondo presenta molte analogie con l’esperienza della Banca d’Italia.
Il secondo pilastro - il Single Resolution Mechanism (SRM) - è complementare al primo, con l’obiettivo di preservare la stabilità finanziaria dell’area mediante una gestione centralizzata delle procedure di risoluzione delle banche in crisi, affidata ad una autorità unica, il Single Resolution Board (SRB). La definizione in senso unitario dei processi e degli strumenti per la gestione delle crisi bancarie risponde all’esigenza di rendere credibili gli obiettivi alla base dell’Unione Bancaria. Il Sistema di risoluzione unico dovrà infatti assicurare, a far tempo dal 1 gennaio 2016, la liquidazione ordinata - in caso di crisi - delle banche cd. significative, di quelle per cui sarà necessario l’intervento del Fondo di risoluzione europeo e di quelle con operatività transfrontaliera. Il processo decisionale interno al Single Resolution Board vedrà coinvolte numerose istituzioni, nazionali e comunitarie: è essenziale pertanto che le regole operative che il Board dovrà emanare ne curino fluidità e tempestività d’azione. Il Board utilizzerà gli strumenti della Bank Recovery and Resolution Directive (BRRD), evitando le distorsioni competitive che altrimenti sarebbero potute derivare dalle implementazioni nazionali della direttiva e assicurerà la gestione unitaria della crisi dei gruppi operanti in diversi paesi, superando i problemi connessi al coordinamento di molteplici autorità.
Il Board opererà in raccordo con le Autorità nazionali di risoluzione, responsabili della redazione dei piani di risoluzione e della conduzione delle procedure di gestione della crisi degli intermediari cd. less significant. Le autorità nazionali agiranno comunque sotto la supervisione e nell’ambito di orientamenti e linee guida stabiliti dal Board, che all’occorrenza potrà esercitare poteri di sostituzione assicurando in tal modo l’effettiva unitarietà del Meccanismo; a questo proposito è fondamentale che vengano definite pratiche e snelle modalità di cooperazione. Lo strumento per rendere tangibile e credibile agli occhi dei
mercari la capacità di intervento del Meccanismo Unico di Risoluzione senza ricorrere a fondi dei contribuenti è il Single Resolution Fund (SRF), costituito mediante versamenti annuali a carico di tutte le banche dell’euro area. Il Fondo è una importante novità che integra gli schemi nazionali di garanzia dei depositi. Esso avrà a regime - nel 2024 - una consistenza dell’1% dei depositi protetti dai sistemi di garanzia, pari a circa 55 mld. di euro. Il fondo sarà inizialmente suddiviso in comparti nazionali che verranno progressivamente messi in comune.

La costituzione di un fondo con una propria e diretta capacità di intervento finanziario accresce la credibilità e la capacità di deterrenza degli strumenti di intervento del Meccanismo di risoluzione unico; questi si avvantaggeranno altresì della prevista possibilità di dotare il Fondo di un backstop europeo, attivabile in breve tempo e con una dotazione finanziaria adeguata per sottoporre a risoluzione anche intermediari molto grandi e complessi, disincentivando comportamenti di azzardo morale.

Il terzo pilastro dell’Unione bancaria, l’istituzione di uno schema armonizzato di assicurazione dei depositi a livello europeo, mira a ridurre le distorsioni competitive dovute alle diverse forme di protezione e modalità di funzionamento degli schemi nazionali. Con il recepimento della direttiva saranno infatti armonizzate le norme sui sistemi di garanzia nazionali. Non è invece ad oggi possibile fare previsioni sulla creazione di un vero e proprio schema unico di assicurazione dei depositi nell’area dell’euro, dato che il progetto è stato per il momento accantonato per le forti resistenze politiche.

(da https://www.bancaditalia.it/.../depolis_03102014.pdf)

Le valutazioni sulla BU europea sono discordi, fra chi vede il bicchiere mezzo vuoto e chi lo vede mezzo pieno. Fra i primi la brava Silvia Merler che ne mette in luce il difetto principale: non v’è un vero strumento di mutualizzazione europeo delle crisi bancarie; in particolare il ruolo dello ESM è solo di ultimissima istanza.

Comfortably numb: ESM direct recapitalization

On one hand, the crises has eased over these two years, and the sense of urgency for this instrument in the eyes of both policy makers, markets and external observers has faded accordingly. On the other hand, the partial information disclosed until now suggests quite clearly that this is not going to be the game changer it was supposed to be.

By: Silvia Merler Date: June 24, 2014

Two weeks ago something happened in Europe, which attracted remarkably low attention. After two years of negotiations, euro area member States seem to have finally reached a "political understanding" on the operational framework for the ESM direct bank recapitalisation instrument, which should therefore be adopted after the relevant national procedure will be completed.
Why such low interest for what should in principle be regarded as a significant step forward in the laudable mission to break the link between euro area sovereigns and banks? The reason is probably twofold. On one hand, the crises has eased over these two years, and the sense of urgency for this instrument in the eyes of both policy makers, markets and external observers has faded accordingly. On the other hand, the partial information disclosed until now suggests quite clearly that this is not going to be the game changer it was supposed to be.

The initial objective of direct recapitalisation by the ESM was very clear. After the turmoil in financial markets had reached new highs, between summer of 2011 and early 2012, European leaders had reached the conclusion that it was "imperative to break the link between banks and sovereigns". The possibility to recapitalise banks directly with the ESM – bypassing the state’s balance sheet – was put forward as an important part of this plan. Since then, the lexicon has changed significantly, reflecting the coming into place of additional (often conflicting) objectives and the consequent shifting of the policy ambitions.

In the "main features" paper published in June 2013, the mission of ESM direct recap is described less ambitiously as to "help remove the risk of contagion from the financial sector to the sovereign. Oddly enough, no mention of this objective is found in the statement issued by the President of the Eurogroup last week, after the agreement was reached. The ESM on the contrary published on its website a series of Frequently Asked Questions, tellingly clarifying that: "when the instrument was first proposed, it was supposed to cut the link between troubled banks and sovereigns. However, it soon became apparent that the remaining building blocks of the banking union would most likely achieve this aim without the need for DRI to provide substantial amounts of fund".

Although rephrased in a politically acceptable way, this sentence points to the crucial issue. In fact, the known features of the instrument are such that it is hard to see how it could possibly sever the sovereign-banking link. While it requires important private sector participation as a precondition, the ESM direct recap instrument still puts considerable burden on the State.

Private sector contribution will be relevant. For a transitional period until 31st December 2015, a bail-in of 8% of total liabilities, including own funds of the beneficiary institution, will be applied. In addition, the ESM Member’s national resolution fund will have to make a contribution, up to the 2015 target level. From 1st January 2016, the criteria in the Bank Recovery and Resolution Directive (BRRD) will apply. The objective of these requirements is to avoid the costly public recapitalisation that we saw in the past, thus breaking one of the vicious circle’s leg. But the bail-in requirements are very tough and, considering that direct recap will be available only for “systemically relevant credit institutions”, the systemic consequence could be important.

Nevertheless, the conditions on the State are significant. Direct recap is available only to member states whose fiscal position is perceived to be at risk. To be able to use this instrument, in fact, a sovereign must be “unable to provide financial assistance to the beneficiary bank without very serious effects on its own fiscal sustainability”, or it must be that alternative solutions "could endanger the continuous access to markets of the requesting ESM Member". If these conditions are not satisfied, and there is no perception of significant risk to financial stability, the Member State would not be eligible for direct recap. Obviously, it could still access the indirect loans for bank recap – the one used in the Spanish case. This creates an inconsistency: if the finances of the requesting State are not perceived (by those who take the decision) to be at risk, the State would most likely be pushed towards indirect recap, which would however end up on its balance sheet, thus possibly creating the perception that public finances will be at risk in a near future.
Second, while being reserved to member states whose finances are perceived to be at risk, ESM direct recap still requires the state to always contribute to the recapitalisation. In particular, if the beneficiary institution has insufficient equity to reach the legal minimum Common Equity Tier 1 of 4.5%, the state will be required to make a capital injection to reach this level before the ESM participates in the recapitalisation. If the bank instead already meets the minimum capital ratio, the state will anyway be obliged to make a capital contribution alongside the ESM. The ESM Board of Governors will have the right to partially or fully suspend an ESM Member’s contribution in the exceptional cases when the ESM Member is not able to contribute up-front due to fiscal reasons. In light of the previous point, however, it is going to be very hard for the Board to discriminate and avoid the two corner solutions in which this exception is applied either to everybody or to nobody.

The continuing involvement of the state meets different objectives of European leaders, which gained relevance in the policy debate during 2013. First, the need to act under a self-imposed constraint of 60bn, i.e. the maximum of ESM resources usable for direct recap. Second, the need to deal with the fact that a large part of the problems now affecting European banks can be seen as the “legacy” of past supervisory and governmental mistakes or misdeeds, at the national level. This is a legitimate need in the short term, but it is hard to justify it for a long-term in which supervision will have been cleaned up and supervision will be entirely moved at the central level. The “main features” paper published in June 2013 included provision for the revision of the instrument’s guidelines every two years since entry into force, to cater for the advancement of Banking Union and the progressive disappearance of legacy assets. No mention of this is found in the statement release by the Eurogroup president, but the actual implementation of this promise will be crucial.

The limitations of the instrument as it currently stands are evident and have been recognised by the IMF in its Article IV on the Euro area, published yesterday. The Fund explicitly says “work needs to continue to establish a common backstop to sever effectively sovereign-bank links. […] While the proposal for ESM direct recapitalization is a step in the right direction, as currently envisaged, the thresholds for such support are too high”.

Ultimately, the problem of ESM direct recap is that its initially clear purpose got lost in translation among the political attempts to meet numerous and conflicting objectives. A very well known law in economics, named after the Dutch economist Jan Tinbergen, says that at least as many independent instruments are needed as there are objectives, for the instruments to be useful. A wise advise, which however did not survive the test of politics, in the case of the soon-to-be-born ESM instrument for direct bank recapitalisation.

(da http://bruegel.org/2014/06/comfortably-numb-esm-direct-recapitalization/)

**Questo è Bibow (2015):**

Two things about the supposed route of resolution of troubled banks are clear from this design. First, the restructuring and resolution regime is intended to help with future crises but will only play a limited role in overcoming the legacies of the current one: the regime concerns phased-in future risk-sharing rather than past damage-sharing. Second, even the extent of future risk-sharing will be rather limited in amount and apply to banks’ contributions rather than taxpayer money in the first instance. Any risk-sharing of taxpayer money will only arise as a last resort through the ESM, which, supposedly, is thereby meant to function as the ultimate euro area quasi-fiscal “backstop”. However, the last-resort fiscal backstop ESM is only foreseen to directly inject equity into banks –
the amount being capped at €60 billion – if providing a loan to the national government would push its debt ratio to unsustainable levels.78 In short, investor bail-in, the €55 billion SRF (plus potential additional market borrowing), and €60 billion are the envisioned euro area defense against future financial crises. In view of the EU’s recent crisis experiences this kind of defense hardly impresses when compared to the U.S. federal government’s $700 billion “Trouble Asset Relief Program” of 2008, especially when considering that EU banks’ assets as a share of GDP are 300 percent whereas U.S. banks’ assets are only 70 percent of GDP.

Overall, then, the banking union project shows some promise in certain areas but does not seem to even come close to ending the bank-sovereign doom-loop; while achievement of its other aims therefore remains uncertain too. At best the banking union is a half-way house, creating a new peculiar imbalance between common supervision paired with – ultimately – still national fiscal backing.

Infine, l’Italia ha recepito la normativa europea sui salvataggi bancari nel settembre 2015:

**Il governo approva il bail-in - La regia affidata a Bankitalia**

di Rossella Bocciarelli 11 Settembre 2015

Sul filo di lana (le norme sul bail in entrano in vigore in tutto il Continente il primo gennaio 2016) il governo italiano ha approvato ieri le nuove regole sulla risoluzione delle crisi bancarie, sotto forma di un decreto attuativo della direttiva europea e di una serie di disposizioni di modifica del Testo unico bancario.

Viene così introdotto anche nel nostro Paese l'istituto del “salvataggio interno” in base al quale gli oneri del salvataggio di una banca gravano in primo luogo sugli azionisti e poi, a seguire, su chi possiede obbligazioni, fino ad arrivare ai grandi correntisti (è interessata l'eccedenza sui 100mila euro, che invece, in caso di crisi, sono tutelati dal Fondo di garanzia dei depositi).

Il bail in di una banca si verifica quando l’azzeramento del capitale non sia sufficiente a coprire le perdite e non si voglia seguire la strada della liquidazione. La nuova normativa individua la Banca d'Italia come autorità di risoluzione e ne disciplina poteri e funzioni. Bankitalia deve tra l’altro predisporre, al fine di definire ex ante per ogni banca o gruppo le possibili modalità di gestione di un eventuale dissesto, dei piani di risoluzione, nei quali sono individuate le misure da adottare nell’eventualità di una crisi.

Qualora si profilì questo rischio, le procedure giuridiche attivabili per gestire la crisi saranno d'ora in poi tre: la liquidazione coatta amministrativa, la riduzione o la conversione in azione degli strumenti di capitale (il cosiddetto write-down) e la risoluzione. Quest'ultima ha per obiettivi la
continuità delle funzioni essenziali di una banca, la stabilità finanziaria, il contenimento degli oneri a carico delle finanze pubbliche, la tutela dei depositanti e degli investitori protetti da sistemi di garanzia o di indennizzo, nonché dei fondi e delle altre attività della clientela.

Per attuare il programma di risoluzione, Bankitalia potrà nominare un commissario speciale e nel corso del programma potranno 1) essere cedute in tutto o in parte a un privato le azioni dell'intermediario a risoluzione; 2) potrà essere creato un ente-ponte o bridge bank a cui potranno essere ceduti in blocco i beni e i rapporti giuridici dell'intermediario in risoluzione, quando le condizioni di mercato non permettono di trovare subito un acquirente privato. Infine, 3) potrà essere creata una società veicolo per la gestione delle attività (la cosiddetta bad bank) a cui conferire alcuni beni dell'intermediario, per amministrarli e massimizzarne il valore di lungo periodo.

Tra i principi base di questa nuova disciplina, oltre all'ordine gerarchico di chi è chiamato a sopportare le perdite, c'è quello per cui nessun azionista e credito deve sopportare perdite maggiori di quelle che subirebbe se ci fosse una liquidazione coatta amministrativa (è il principio del no creditor worse off). Inoltre, come si diceva, i depositi protetti non subiscono perdite, ossia i depositi fino a 100 mila euro non possono essere assoggettati a bail-in.

Sono escluse dal bail in anche le passività garantite e le passività interbancarie con scadenza originaria inferiore a sette giorni. È poi prevista per la Banca d'Italia la possibilità di escludere eccezionalmente, in tutto o in parte, dall'applicazione del bail in ulteriori passività, sempre che sia effettuato un bail in pari ad almeno l'8 per cento del totale passivo: in questo caso, il costituendo Fondo nazionale di risoluzione, alimentato da contributi delle banche, potrà intervenire per coprire il relativo fabbisogno di capitale, con una contribuzione che non potrà eccedere il 5 per cento del totale passivo.


**Garanzia europea sui depositi**

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La disciplina attuale italiana è descritta qui:

Macroprudentialism

Un’ultima frontiera del dibattito riguarda il cosidetto Macroprudenzialismo, vale a dire quelle misure di politica bancaria atte a impedire che eccessi finanziari si traducano in crisi sistemiche. Buona fortuna!

La questione non viene trattata in questo corso. Gli studenti interessati potranno proporre tesi su quest’argomento ai docenti che insegnano materie bancarie. In merito si vedano:

- http://www.voxeu.org/content/macroprudentialism