



***Tightening Financial Regulation,
Broadening Role of Deposit Insurance
- Resolution Serving Financial Stability***

Bank Resolution Framework in Poland

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USA

Experience in utilization of P&A methods and other resolution tools
Limited experience with large banks

Europe

In contrast to USA and Asia, the role of DIS's is limited to payouts in case of bank insolvency



Asia

Full range of resolution tools, also applicable to large banks
Experience in crisis management and resolution of large banks

In view of the severity of the crisis in Europe the introduction of new tools is urgent

Country level



Great Britain



Denmark



Serbia



Belgium



Germany



Ireland



Netherlands



Romania



Ukraine



Spain

European Union solutions



EUROPEAN
COMMISSION

01/2011

Working document:

*Technical Details of a Possible
EU Framework for Bank
Recovery and Resolution*

Global recommendations (G20 countries)



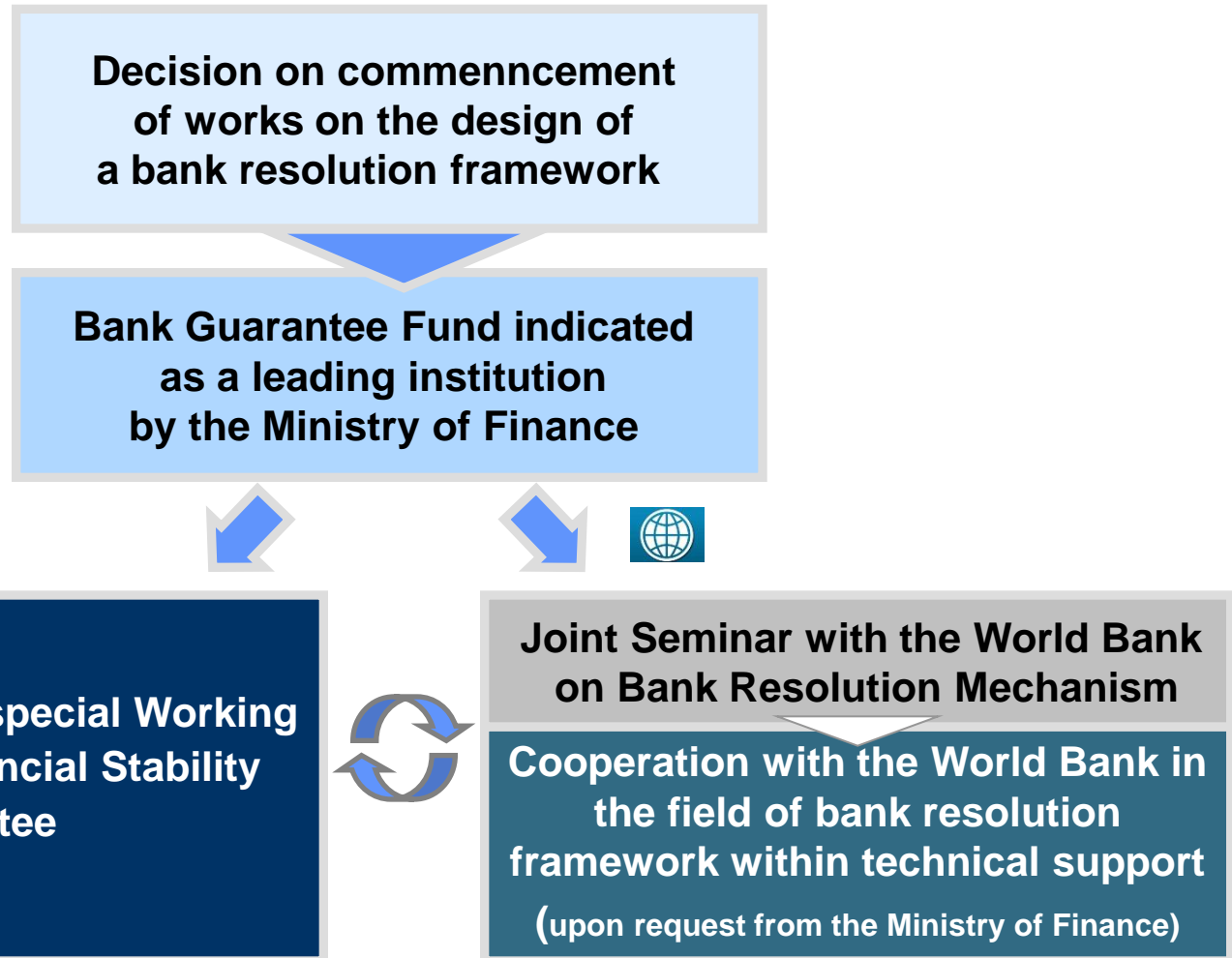
FSB

FINANCIAL
STABILITY
BOARD

10/2011

*Key Attributes of Effective
Resolution Regimes for Financial
Institutions*

Decision has been taken that Poland should without undue delay join the countries which have acknowledged the special resolution regime as an important part of the financial safety net and a fundamental tool for crisis management





Objective

Design of a bank resolution framework for Poland, in particular:

- Review of current legislation on rehabilitation, liquidation and bankruptcy proceedings for banks
- Analysis of other countries' experiences in applying advanced bank resolution frameworks
- **Design of a bill on bank resolution.**

Composition

- **President of the Management Board, Bank Guarantee Fund – Chair**
- **Representative of the Ministry of Finance – Vice Chair**
- **Representative of the Office of the Polish Financial Supervision Authority delegated by the Chairperson of the Polish Financial Supervision Authority**
- **Representative of the National Bank of Poland (NBP) delegated by the President of the NBP**



FSC's Working Group on Bank Resolution

Ministry of Finance

Establishment of the FSC's special Working Group

Stage I

Conceptual works



Stage II

Study visits



Stage III

Design of a draft legislation

Legislative process

Schedule built in compliance with FSB recommendations

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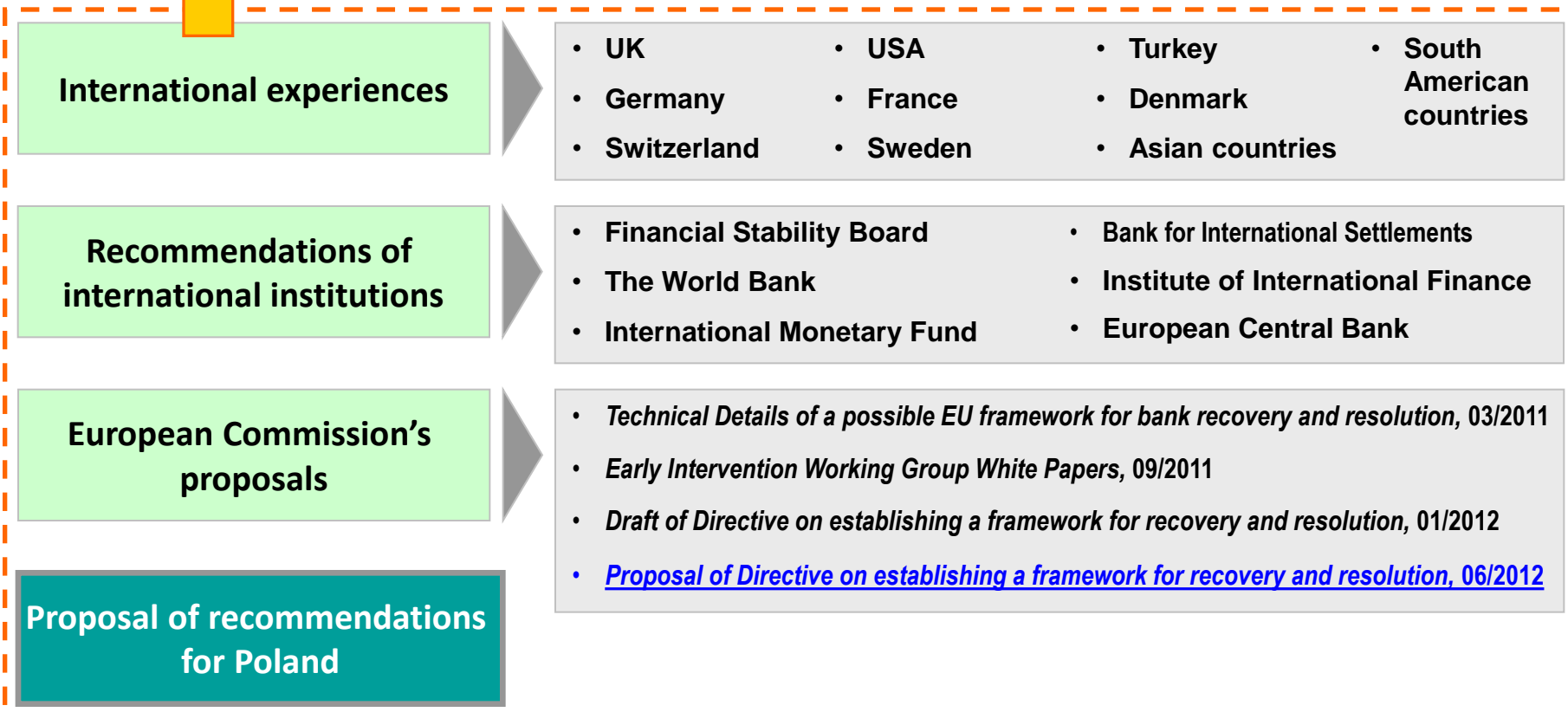


Know the practice, benefit from experience



External legal experts support in terms of congruence with internal and European law







Range of covered issues in line with G20 recommendations



Key Attributes of Effective Resolution Regimes for Financial Institutions

Main issues to be addressed / decided

Scope: SIFIs, holding companies, investment firms, branches of credit institutions, branches of foreign banks

Institutions involved: mandates, responsibility share, resolution authority (RA), information sharing, cooperation

Resolution powers: commencement of the proceeding, triggers, general powers, resolution tools, pay-box, residual bank liquidation

Set-off, netting, collateralisation, segregation of clients' assets

Safeguards: *no creditor worse off* rule, EU legislation, judicial review, appeal proceedings

Funding: source of financing resolution proceedings (resolution fund), temporary public ownership option

Cross-border issues: home-host countries relations, Crisis Management Groups, cross-border information sharing

Recovery and resolution planning, resolvability assessment

With particular focus on European Commission's proposals





Objectives

Design of a report elaborating on bank resolution in Poland, including in particular:

- Review of other country experiences in applying advanced resolution frameworks
- Analysis of currently binding banking, insolvency and rehabilitation regulations
- Overall design parameters for Poland's bank resolution framework
- Highlights of necessary legislative changes for a well-structured resolution process

Cooperants

- The World Bank – Author of the report
- **Bank Guarantee Fund – Project coordinator**
- The Ministry of Finance - Initiator
- The National Bank of Poland
- Office of the Polish Financial Supervision Authority



FSC's Working Group on Bank Resolution / Ministry of Finance

Establishment of the FSC's special Working Group

Stage I

Conceptual works



Stage II

Study visits



Stage III

Design of a bill

Legislative process

Background knowledge

Part of justification for new legislation

Establishment of cooperation on resolution with the World Bank

Stage I

Terms of reference

Stage II

The first draft of report

Stage III

Technical missions

Stage IV

Comments & amendments to the report



Report presented during a the conference organized jointly by the World Bank and the Polish Bank Guarantee Fund

Part of information strategy on resolution



FSC's Working Group	24 Oct 2011	The Financial Stability Committee's Working Group established
	Dec 2011 – May 2012	<ul style="list-style-type: none"> • Stage I: Conceptual works on bank resolution • Stage II: Study visits
	Since June 2012	Stage III: Work on the resolution bill
	Nov 2012	Planned term to deliver the bill to the Financial Stability Committee

The World Bank	11 Oct 2011	Joint Seminar with World Bank on European Bank Resolution Mechanism
	16 Nov 2011	Stage I: BFG provided with <i>Terms of reference</i> by the World Bank
	Dec 2011 - Jul 2012	Stages II - IV: Work on the report
	26 Jul 2012	Final report on the Polish Bank Insolvency Regime Presented at the Bank Guarantee Fund





Triggers

- **The bank in failing or likely to fail** (continuity of bank activity is endangered)
- **Resolution is necessary in the public interest**
- **There are no credible premises that any possible bank's or supervisory actions would allow to obviate the threat of failure within reasonable timeframe**

Decision on the commencement of a resolution proceeding

Polish Financial Supervision Authority



Resolution tools

- **Asset separation**
- **Sale of business**
- **Bridge bank**
- **Bail-in**

Selection of the tool and resolution process execution

Bank Guarantee Fund – resolution authority

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Source of financing

Resolution fund created ex ante on the basis of annual contributions made by entities covered by BFG's deposits protection



The choice was confirmed by the Financial Stability Committee



Leading institution (resolution authority) - analysis

	FSA	NBP	BFG	Separate entity created by MoF
Collected <i>ex ante</i> funds			✓	
Experience in bank restructuring proceedings	✓		✓	
Lack of conflict of interests			✓	✓
Available restructuring (resolution) tools	✓		✓	
Economic incentives			✓	
Cost efficiency in terms of resolution fund management			✓	

Source: NBP's materials presented on the FSC's Working Group's meeting on 22.12.2011

Subjective scope

Commentary

European Commission's proposal

- **Credit institutions**
- **Investment firms**
- **Financial institutions being subsidiaries of a credit institution or investment firm** (e.g. insurance companies)
- **Holding companies**
- **Parent holding companies**
- **Branches of foreign banks** (head office outside the EU)



EC proposal covers wide scope of institutions as it is addressed to 27 countries including developed financial markets where the main world's financial centers are placed (e.g. London's City, Frankfurt) and the largest financial institutions have their head offices

Polish resolution framework

- **Credit institutions (banks)**
- **Branches of foreign banks** (head office outside the EU)



- Analysis of Polish financial market structure indicate that banks are crucial in terms of financial stability
- Investment firms and holding companies do not generate systemic risk

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Investment Funds

Assets under management	150,8 bln PLN
Number of institutions *	417
Market share	8,5%
GDP share **	10,1%
The largest entity	Pioneer Pekao TFI
Share of the largest entity	11,6%

Open Pension Funds (obligatory)

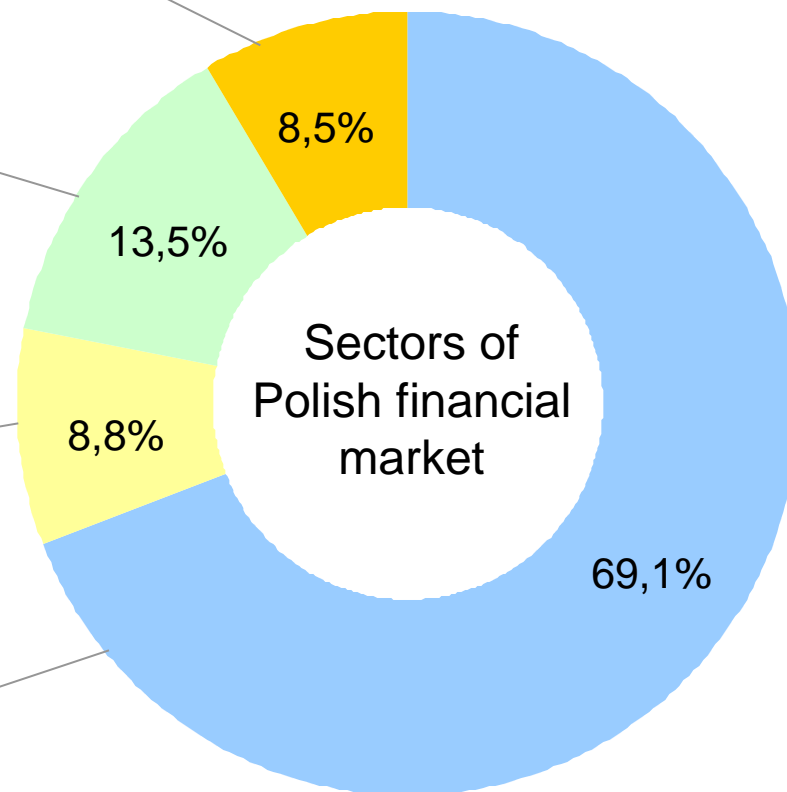
Total assets	239,6 bln PLN	
Number of institutions	14	
Market share	13,5%	
GDP share **	16,0%	
The largest entity	ING	Aviva
Share of the largest entity	23,4%	23,9%

Insurance Companies

Total assets	156,0 mld PLN	
Number of institutions	63 (life insur. comp. included)	
Market share	8,8%	
GDP share **	10,4%	
The largest entity	PZU Life & PZU	
Share of the largest entity	36,7%	

Banks

Total assets	1 224,4 bln PLN	
Number of institutions	644	
Market share	69,1%	
GDP share **	81,8%	
The largest entity	PKO BP	Pekao
Share of the largest entity	14,5%	10,5%



* 2010

** IMF's estimation for 2011

Source: Own elaboration based on dates: Polish FSA, BFG, IZFiA, IMF and GUS.

Scope of bail-inable instruments

European Commission's proposal



All liabilities **except for**:

- covered deposits
- secured liabilities
- liabilities arising from fiduciary services
- short term liabilities
- liabilities toward employees
- commercial and trade liabilities
- tax and „social” liabilities

Current EC's proposal is highly ambiguous in terms of **DGS funds' contribution**



Very wide scope of eligible debt instruments including **senior liabilities**

Polish resolution framework

Scope **limited** to quasi-capital debt instruments:



- Capital instruments that are included in own funds (Additional Tier 1 and Tier 2)
- Subordinated debt that is not Additional Tier 1 or Tier 2 capital
- Contingent capital instruments containing contractual terms enabling reduction or conversion of the instrument

- The most controversial tool
- Subject to the legal risk
- Severe interference with relative contract relations
- No practical experiences in usage
- Unknown influence on financial markets and funding
- May cause liquidity challenges at bank level

Cross-border issues

European Commission's proposal

- Resolution plans prepared, agreed and implemented on the group level
- Possibility to may make own decision by group level resolution authority in the field of measures to be taken to remove any impediments determined by resolvability assessment
- The group resolution scheme proposed by the group resolution authority and are binding for the members of the resolution college
- Binding mediation of EBA in case of conflict between group level resolution authority and these from host countries



Polish resolution framework

No regulations in the field of cross-border resolution proceedings beyond entitlement for resolution authority to conclude MoU agreements with relevant authorities from other countries and requirements on passing information on.

- EC's proposal admits preferences to home countries
- Insufficient safeguards for host countries
- Countries bounded by EBA's arbitral decision also in the area of activities requiring usage of public funds (parafiscal costs)
- No guarantee for reciprocity

Resolution proceedings' financing

European Commission's proposal

- **Wide range of usage of DGS funds in resolution process on obligatory basis** (up to the amount of covered deposits)
- **Possibility to reduce annual fees charged from financial institutions by excluding from the basis for contribution's calculating the deposits guaranteed under Directive 94/19/EC** (if a Member State provides that DGS funds may be used for the purposes of resolution)
- **Obligatory borrowing between financing arrangements**
- **Mutualisation of national financing arrangements in the case of a group resolution – burden sharing** (Art. 83(5)(c) and 98)



Polish resolution framework

- **Creation of resolution fund on ex ante basis**
- **Annual contribution's rate established independently from deposit guarantee fund's rate by BFG**
- **Possibility to collect extraordinary contributions - annual fees for more than one period charged in advance**
- **Possibility to transfer between funds managed by BFG on the basis of autonomous BFG's decision** (incl. pay-box fund)
- **No regulations on borrowing nor burden sharing included in the bill**

- **Obligatory contribution from DGS impose additional tasks on deposit guarantors and as a consequence may weaken their ability to realize their core functions**
- **Possibility to treat DGS funds as part of resolution financial arrangements may undermine the financing mechanism as there is no harmonisation across the EU in terms of DGS financing method and target level.**
- **Delegation of authority to set up borrowing conditions beyond parties directly involved** (EC will specify the conditions in delegated acts – art. 97(3))



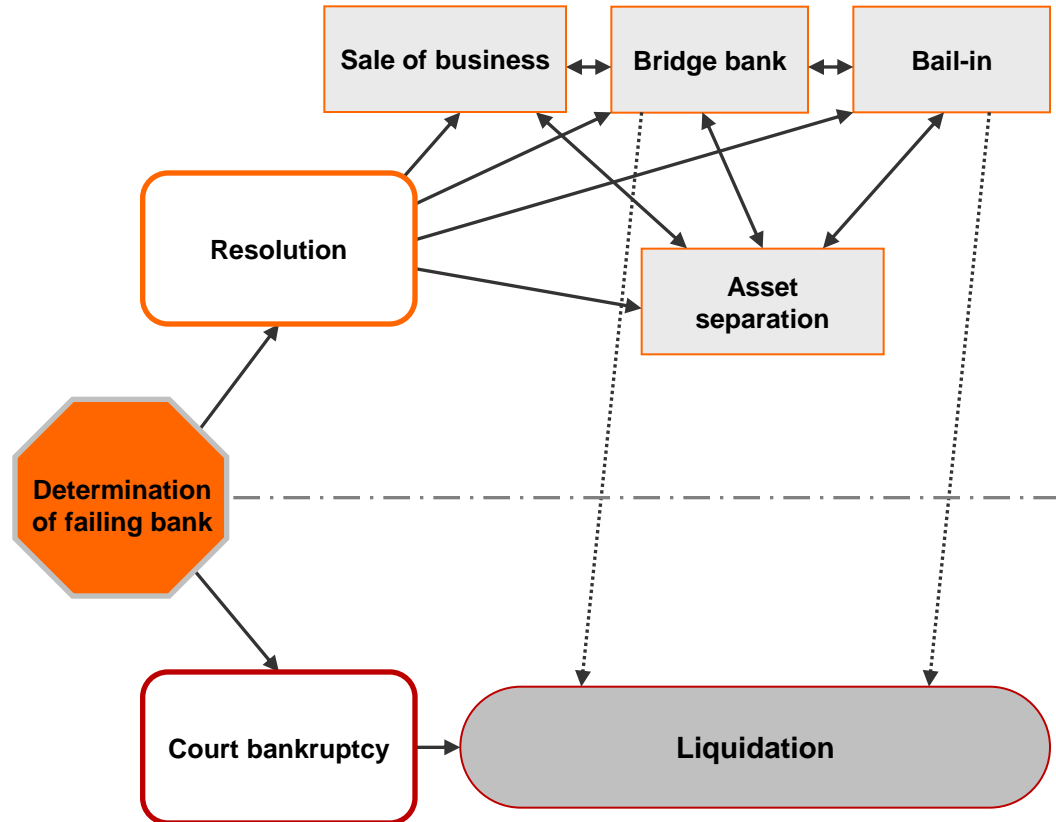
- Supervision and preparatory works**

 - Capital requirements
 - Liquidity norms
 - Large exposures limits
 - Supervisory reporting
 - On site inspection
 - BCP
 - Recovery plan drafting and review
 - Stress tests
- Resolution preparatory works*

 - Resolution plans
 - Change of legal and organizational structure
 - Exposures limits
 - Business scale limits
 - Complexity reduction

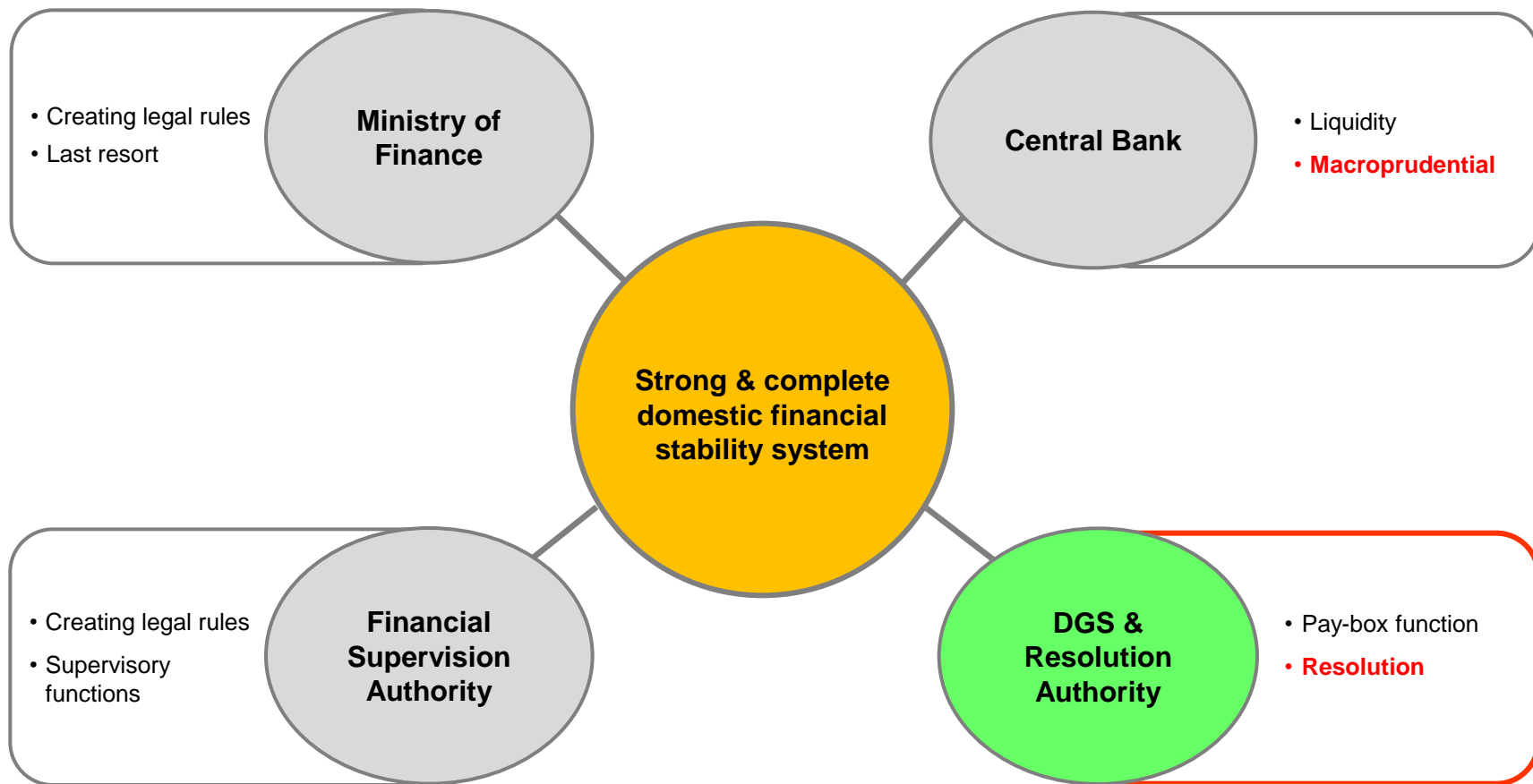
- Early intervention supervisory measures**

 - Recovery plan execution
 - Increase of capital
 - Extended reporting
 - Change of management
 - Restructuring plan
 - Trustee (conservator)
 - Administrator
 - Limits for business activity



Source: BFG work based on EC working document Impact Assessment SWD (2012) 166/3, s. 13,





Financial stability network widen with resolution function enable to affect the market and limit any disruptions more effectively