

Course Syllabus

Course	Bank Supervision and Resolution in the European Banking Union (EBU)
Lecturer(s)	Professor Emiliós Avgouleas, Chair in Banking Law and Finance, University of Edinburgh; Member of the Stakeholder Group, European Securities and Markets Authority
Course Description	<p>The banking sector is the key source of funding and risk sharing for the EU economies in spite of the rise of capital markets. But the banking sector can only perform this role if it is properly regulated and supervised. It is also very important to have in place a mechanism for the orderly exit of underperforming banks without undermining the stability of the financial system. In a currency union the most effective way to discharge these functions is through centralisation at least as far as the biggest institutions are concerned. Thus, Bank supervision and resolution are the most important functions of the European Banking Union (EBU). This course is inter-disciplinary and aims to provide the students with good knowledge of the EU’s regime for bank supervision and resolution and of the main policy objectives of both regimes. It will also provide detailed technical knowledge of the way the European Banking Union institutions like the SSM and the SRB discharge their duties within their respective legal mandates. Given the expected impact of the Covid-19 pandemic on the EU markets we will also discuss interim and structural measures at the EU level to stabilise the banking sector in the aftermath of the pandemic. Finally, it will offer a critique of the current EU resolution regime and its lack of a strong fiscal backstop.</p>
Primary References and Additional Materials	<p>E. Avgouleas, R. Cranston et al, <i>Principles of Banking Law</i> (Oxford University Press, 2017), chapters 1-5.</p> <p>G. Bassani, <i>The Legal Framework Applicable to the SSM</i> (Kluwer Law, 2019).</p> <p>M. Haentjens, Bob Wessels (eds), <i>Research Handbook on Crisis Management in the Banking Sector</i> (Elgar, 2015).</p> <p>Giovanni Dell’Ariccia, et al., “Trade-offs in Bank Resolution”, IMF Staff Discussion Note 18/02, February 2018, available at https://www.imf.org/~media/Files/Publications/SDN/2018/sdn1802-trade-offs-in-bank-resolution.ashx</p>
Course Objectives	<p>The course has the following key objectives:</p> <ul style="list-style-type: none"> • To equip students with a good knowledge of bank supervision principles, techniques, and objectives • To offer a good critical analysis of the fundamental goals and functions of the SSM, the key pillar of the EBU bank supervision regime • To equip students with a good knowledge of bank resolution principles, techniques, and objectives

	<ul style="list-style-type: none"> • To offer a good critical analysis of the fundamental goals and functions of the EBU bank resolution regime • To overhaul students' independent thinking and problem-solving skills by discussing a number of resolution case studies and their critical outcomes
Prerequisite(s)	<p>Good knowledge of EU Law</p> <p>Good knowledge of the economics of financial stability and financial regulation</p>
Teaching Method(s)	Interactive seminars which will include a lecture component, class discussion, and student own presentations
Assessment Method(s) and Grading Policy	<p>An in-course presentation that will count towards 25% of the overall grade</p> <p>An end of term open books exam that will count towards 75% of the overall grade</p>

EXTENDED COURSE PLAN & REFERENCES		
<i>*Lecture Duration: 2 hours</i>		
Lecture 1	<i>Topic</i>	<p>What is bank supervision (i): key methods, purposes and techniques – microprudential vs macroprudential</p> <p>Why bank supervision centralization in the EBU?</p>
	<i>References</i>	<p>E. Avgouleas, R. Cranston et al, <i>Principles of Banking Law</i> (Oxford University Press, 2017), chapters 2,3,4.</p> <p>G. Bassani, <i>The Legal Framework Applicable to the SSM</i> (Kluwer Law, 2019, chapter 1.</p>
Lecture 2	<i>Topic</i>	<p>The Structure, role, and powers of the SSM</p>
	<i>References</i>	<p>G. Bassani, <i>The Legal Framework Applicable to the SSM</i> (Kluwer Law, 2019), chapter 2.</p> <p>E. Avgouleas, R. Cranston et al, <i>Principles of Banking Law</i> (Oxford University Press, 2017), chapter 5.</p> <p><u>Updated discussion of SSM actions and legal documents and Introductory discussion of SSM supervisory powers and practices available here:</u> https://www.bankingsupervision.europa.eu/home/html/index.en.html</p>
Lecture 3	<i>Topic</i>	<p>What is Bank Resolution? Goals, Objectives, Methods, and Challenges</p>
	<i>References</i>	<p><i>For an excellent very introductory discussion see:</i></p> <p>BIS, ‘Bank resolution framework - Executive summary’, 20 October 2017, available at https://www.bis.org/fsi/fsisummaries/brf.pdf</p> <p><i>For an evaluation of the resolution regimes see:</i></p> <p>E. Avgouleas, C. Goodhart, “Bank Resolution 10 Years from the Global Financial Crisis: A Systematic Reappraisal” WP 7/2017, SEP, LUISS, June 2019, also chapter 2 in D. Arner, E. Avgouleas, D. Busch, S. Schwarcz (eds), <i>Systemic Risk in the Financial Sector: Ten Years After the Global Financial Crisis</i> (McGill University Press/CIGI Press, forthcoming October 2019), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3396888</p> <p><i>For an evaluation of Resolution Reforms and their impact on Too-Big-To-Fail banks so-called Globally Systemically Important Banks (G-SIBs) see:</i></p> <p>FSB, “Evaluation of the effects of too-big-to-fail reforms: consultation report”, 28 June 2020</p> <p>FURTHER READING</p> <p><i>Resolution preparedness for the expected impact of the Covid-19 pandemic see:</i></p>

		<p>FSB, ‘2020 Resolution Report: “Be prepared”, 18 November 2020, https://www.fsb.org/2020/11/2020-resolution-report-be-prepared/</p> <p><i>For a comprehensive law and economics analysis of contemporary bank resolution regimes see:</i></p> <p>Giovanni Dell’Ariccia, et al., “Trade-offs in Bank Resolution”, IMF Staff Discussion Note 18/02, February 2018, available at https://www.imf.org/~media/Files/Publications/SDN/2018/sdn1802-trade-offs-in-bank-resolution.ashx</p>
Lecture 4	Topic	<p>EU Crisis Management and Bank Resolution Framework: BRRD</p> <p>Bank resolution in the EBU: SRM/SRB & SSM</p>
	References	<p>Chapter 5: The EU Resolution Toolbox Chapter 7: The Single Resolution Mechanism in the European Banking Union: Legal Foundation, Governance Structure and Financing In M. Haentjens, Bob Wessels (eds), <i>Research Handbook on Crisis Management in the Banking Sector</i> (Elgar, 2015)</p> <p>On the new ESM Treaty and the so-called EBU Fiscal Backstop see:</p> <p>Nicoletta Mascher, Rolf Strauch, Andres Williams, “A backstop to the Single Resolution Fund now!”, 3 December 2020, https://www.esm.europa.eu/blog/backstop-single-resolution-fund-now</p> <p>Introductory material can be found here: https://srb.europa.eu/en/content/what-bank-resolution</p> <p>And here: https://ec.europa.eu/info/business-economy-euro/banking-and-finance/banking-union/single-resolution-mechanism_en</p> <p>All relevant EU material can be found here: https://ec.europa.eu/info/business-economy-euro/banking-and-finance/financial-supervision-and-risk-management/managing-risks-banks-and-financial-institutions/bank-recovery-and-resolution_en</p>
Lecture 5	Topic	<p>NPLs and AMCS, Bail-in, TLAC, MREL</p> <p>Bank recovery and resolution in action before and after the Covid-19 Pandemic with case studies</p> <p>(Students researching and presenting on the resolution of Banco Espirito Santo, Baco Popular, and the Cypriot Banks, the recapitalisation of the MPS as well as EU-level interim and permanent measures to tackle Non-performing Loans (NPLs))</p>
	References	<p><i>Key reading:</i></p> <p>E. Avgouleas, C. Goodhart, “Critical Reflections on Bank Bail-ins” (2015) 1 <i>Journal of Financial Regulation</i> 3–29. Available at</p>

	<p>https://academic.oup.com/jfr/article/1/1/3/2357875</p> <p>J-H Binder, “The Relevance of the Resolution Tools Within the SRM”, <i>European Banking Institute Working Paper Series 2018 - no. 29</i>, 1 Nov 2018, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3274520</p> <p><u>For an accessible introductory summary to TLAC and MREL see:</u></p> <p>Deutsche Bundesbank, “Bank recovery and resolution – the new TLAC and MREL minimum requirements” Monthly Report July 2016, p. 63 et seq., available at https://www.bundesbank.de/resource/blob/654532/7046f093197a1e4ab2e1f2446aff8934/mL/2016-07-minimum-requirements-tlac-mrel-data.pdf</p> <p><u>For a summary of EU resolution actions since the adoption of BRRD discussing also MPS, Banco Espírito Santo and the Greek banks see:</u></p> <p>K. Stoechl, “Case Study of Recent Bank Resolutions in Europe and Related Litigation” October 2017, http://pubdocs.worldbank.org/en/683831508430911166/BR-Judiciary-Day-II-KoljaStehl.pdf</p> <p><u>On NPLs and EU Interim Measures see:</u></p> <p>EU Commission Communication, “Action plan: Tackling non-performing loans (NPLs) in the aftermath of the COVID-19 pandemic”, 16 December 2020, https://ec.europa.eu/info/publications/201216-non-performing-loans-action-plan_en</p> <p>Further reading:</p> <p>E. Avgouleas, D. Arner, E. Gibson, “Financial Stability, Resolution of Systemic Banking Crises and COVID-19: Toward an Appropriate Role for Public Support”, 28 August 2020, <i>University of Hong Kong Faculty of Law Research Paper No. 2020/044</i></p> <p>S. Merler, “Critical functions and public interest in banking services: Need for clarification?” European Parliament Briefing, November 2017. http://www.europarl.europa.eu/RegData/etudes/IDAN/2017/614479/IPOL_IDA(2017)614479_EN.pdf</p> <p>T. Philippon, A Salord, “Bank Resolution in Europe: A Progress Report”, Geneva Reports on the World Economy Special Report 4, March 2017. https://cepr.org/sites/default/files/news/GenevaSpecialReport4.pdf</p> <p>SRB, “Minimum Requirement for Own Funds and Eligible Liabilities (MREL)”, 20 November 2018, available at https://srb.europa.eu/sites/srbsite/files/srb_2018_mrel_policy_-_first_wave_of_resolution_plans.pdf</p>
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