



THE BRIDGE BANK TOOL: LEGAL AND PRACTICAL CONSIDERATIONS

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THE BRIDGE BANK AS A USEFUL OPTION

The bridge bank is definitely not your first-best resolution tool...

- It is a transient and not final solution.
- Can be fragile in preserving confidence (depending on the strength of franchise).
- Requires hands-on control by the resolution authority post resolution.

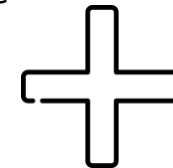
But it can be an indispensable second-best...

Compared to the Sale of Business

- ✓ Also ensures continuity.
- ✓ Execution not dependent on having a buyer immediately.
- ✓ Might be useful to have more time to execute the sale in better conditions.

Compared to the open bank bail-in

- ✓ More effective in ring-fencing the viable business from contingent liabilities and litigation.
- ✓ Might be more effective in stabilising the bank.



Provides optionality

- ✓ Useful as a fallback solution
- ✓ Even if you have a buyer to execute SoB, important to have an alternative, also to enhance bidding power.

Even if you prefer not to use the bridge bank tool, you want to have this option available.



THE BRIDGE BANK: CHALLENGES

Creating a bridge bank and ensuring its viability is challenging at multiple levels. Some examples:



**LICENSING AND
SETTING
CAPITAL
REQUIREMENTS**



DATA AVAILABILITY



VALUATION



**SETTING AND
PROVIDING
CERTAINTY TO
PERIMETER**



PAYMENT SYSTEMS
AND FMI



CRITICAL SERVICE
PROVIDERS



TRIGGERS OF
DEFAULT



**CONTINGENT
LIABILITIES**



CONTEXT-
DEPENDENT



RECOGNITION

THE BRIDGE BANK: CHALLENGES



LICENSING AND SETTING CAPITAL REQUIREMENTS

Supervisory decisions are key to the BB and to its sale process.

The BB is created and set up by the resolution authority but *has to be authorised by the supervisor*.

Capital requirements are crucial to determine extent of WDC and critical in a sale process.

If alignment is not ensured, there is a risk that supervisory views hinder the creation of the BB or its sale.

Cooperation and information sharing are essential.



RECOGNITION

Need to ensure that newly created bank is recognised as the *successor of the failed bank* by all the relevant counterparties.

Transfer of ownership and control of *assets located abroad* raises issues of international recognition and authorisation by foreign authorities might be necessary for foreign subsidiaries.

Service providers might not be immediately convinced and might invoke *change of control or MAC clauses*.

THE BRIDGE BANK: CHALLENGES



SETTING AND PROVIDING CERTAINTY TO PERIMETER

Identification of assets/liabilities, business areas, staff and infrastructures that are *necessary and valuable* for the business post-resolution.

This will in principle be made using *general criteria* and must be implemented by the bank.

Depending on how complex this cutout is there will be a *significant workload going forward*.

The perimeter will most likely be challenged by affected creditors, who will seek to have their claims transferred to the BB.

Ultimately courts will decide but *the BB cannot be expected to carry this legal risk and providing certainty to the perimeter might require assurance by the financing arrangement*.



CONTINGENT LIABILITIES

Not all liabilities are known at the time of resolution and new liabilities of the failed bank may emerge afterwards.

Depending on the specific situation *these can be significant*, e.g. claims on misselling of bailed-in instruments, possible liability for decisions taken by the bank pre-resolution which are not confirmed at the time of resolution.

At resolution, it might be unclear if such liabilities exist, what their amount might be and even their possible nature (senior, subordinated) and a clarification on this might take years.

Leaving these contingencies behind might be necessary to meet the resolution objectives.



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