Articolo Divulgativo

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BAIL-IN: WHAT IT IS AND WHAT IT DOES

The BRRD (Bank Recovery and Resolution Directive) introduces some balanced regulations in all European countries to manage banking crisis. These regulations aim to reduce the side effects on the economic system due to the rescue of one or more banks, thus avoiding that the cost of such operations weighs upon the taxpayers.

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Lately, banking crisis and the measures to tackle it, like the **Bail-in**, took center stage, provoking quite a dismay in investors. But what is the bail-in and how does it take place? The bail-in is an internal rescue measure (a sort of banks' self-defence) that allows to devalue stocks and credits and convert them in stocks that will mitigate the loss and recapitalize the bank in need (or a new entity that handles its basic functions). Following Cyprus's banking crisis of June 2013, the Council of Ministers adopted, at the end of 2015, the European regulation "BRRD" (Bank Recovery and Resolution Directive). It regulates banking crisis and the so-called **bail-in**, which introduced some balanced regulations in all European countries in order **to prevent and manage banking crisis**. The creation of the BRRD in Italy is made of two administrative orders that were approved by the Government on 13th November 2015. But first things first. What does the **bail-in** directive say? First of all, the directive **provides the resolution authorities**, such as Banca d'Italia, **with the means to plan the management, intervene in time and eventually solve the crisis**. Even during the regular periods of activity, Banca d'Italia will be able to make resolution plans in order to identify all the strategies and actions to undertake in case of difficulties. What is more, supervisory authorities will have graduated intervention means depending on the problematic nature of the financial intermediary involved (e.g. discharge administrative authorities and/or appoint temporary administrators). But what are the means that a bank can use to cope with a kind of instability that is difficult to solve quickly? In such a case, Banca d'Italia will be able to: **sell** a part of the assets; temporarily **transfer** assets and liabilities to a bridge bank (i.e. a "vehicle" designed to carry on the most important functions before the subsequent transfer on the market); **transfer** the deteriorated assets to a bad bank (which takes care of its closure); apply the **bail-in**. Nonetheless, some liabilities are excluded from the bail-in (**who or what is not involved?**): deposits **up to 100,000 euros** (protected by the deposit guarantee scheme); guaranteed liabilities, such as **covered bonds** and other guaranteed means; liabilities proceeding from customers' savings (e.g. **the content of safe-deposit boxes**) or by virtue of a fiduciary relationship (as **stocks held in a dedicated account**); **interbank** liabilities (excluding intra-group relations) with original maturity of less than 7 days; liabilities proceeding from **participation** to payment systems with a residual maturity of less than 7 days; **debts regarding employees**, commercial and tax debts, providing that these are privileged by the bankruptcy law. Hierarchical criteria are followed to apply the **bail-in**: those investing in the most dangerous financial resources should be the first to deal with potential loss or stock conversion; only after running out of all the resources belonging to the most dangerous category, can they move to the next category. **In Italy, the European directive concerning the banking crisis resolution came into force on 1st January 2016**, stating that in case of a financial crisis, the Government will not be in charge of the loss anymore, but the banks will have to turn to the internal rescue measure, i.e. the bail-in. Consequently, stockholders, bondholders, account holders and a guarantee fund (financed by the banks themselves) will be responsible for the needed assets. As for

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the **national resolution funds**, whose aim is to provide resolution plans with financial support, each member state of the EU must establish a national resolution fund that is financed by its own banks. Such fund will finance corporate restructuring if necessary. For this reason, the Single Resolution Fund, in which the different national resolution funds merge, was introduced. It is a single European fund financed by the banks of the participating countries throughout the years and it aims to support resolution plans by giving a loan or a guarantee. However, if the exclusion of some credits is necessary, e.g. to avoid the risk of contamination, the fund can absorb losses instead of the excluded creditors, thus reducing the amount of the bail-in.