The role of special resolution regimes in post-crisis financial regulation: Four Danish lessons

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What is the best way to avoid that financial institutions become 'too big to fail'? One approach particularly popular among policymakers is the building of special bank insolvency policies that aim to resolve any financial institutions without systemic consequences. Danish authorities are among the first to have actually used the new resolution approach, and the Danish case thus offers a number of lessons about the problems and potentials of special bank resolution regimes.

1. Introduction

The problem of too big to fail (TBTF), i.e. that some financial institutions have grown so big and complex that authorities will not let them fail because of the systemic consequences it would entail, has consistently ranked among the most salient and controversial issues in post crisis financial regulatory debates. The reasons are obvious: TBTF institutions exacerbate systemic risk by creating massive contingent liabilities for governments; TBTF institutions distort competition, notably through the lower funding costs that an implicit state guarantee secures; and TBTF institutions undermine public trust in the fairness of the financial- and political system (Goldstein and Verón 2011). The TBTF-problem has on both an international and national level been addressed through three avenues of reform: Increased capital- and liquidity requirements (implemented internationally through the Basel III accord, complimented by specific national requirements), structural reform (size caps, break-up of large financial institutions, clear shutters between investment banking and deposits, etc.) and the building of special resolution regimes (SRRs). SRRs are increasingly being implemented, especially in the financial systems that were hit hardest by the crisis (BCBS 2011, FSB 2013). The hope and ambition behind implementing SRRs is to combat the TBTF problem by requiring that financial institutions plan for crisis by writing so-called 'living wills', offering authorities early intervention powers and increased discretion in resolving failed institutions, and avoiding taxpayers foot the bill by requiring that financial institutions hold debt subject to bail-in (e.g. by converting debt into equity at a predetermined trigger point) and build up resolution funds ex ante or ex post.

This paper is organised in two parts. Drawing on the international regulatory debate as well as arguments from economics, the next section presents the basic arguments for the central role of SRRs in post-crisis financial regulation. As will become clear, the benefits of SRRs are generally presented in functional terms as a means to avoid 'moral hazard' in the financial industry by offering a credible commitment to wind down financial institutions of any size. As an alternative to the standard approach, the section argues that SRRs should not only be seen as an efficiency enhancing technology but also as a political tool used in distributional battles over who wins and who loses in banking crises. Section three presents a case study of one of the few SRRs that have actually been put to use, namely the Danish SRR implemented in 2010 and used for the first time in 2011. The Danish case offers four lessons: First, the implementation of the Danish SRR has not led to a less active role for the state in banking crises. Rather it signifies an institutionalization of the very central role of the state in banking crises. Second, following the significant consequences of forcing creditors to accept write-downs on unsecured and uninsured debt in the closing of *Amagerbanken* and *Fjordbank Mors*, the Danish SRR has de facto been put to rest and replaced by a dowry scheme that helps bail out creditors. This demonstrates the difficulties of creating a market conform special resolution regime that can credibly commit authorities to shut down ailing banks and ensures that creditors and shareholders bare the costs related to crises. Third, the Danish case is ripe with examples of how the SRR is used to give special treatment to financial institutions at politically opportune moments. . Fourth, although SRRs can help to provide more powerful resolution technologies, they do not solve the political problem of the strong incentive to let large financial institutions conduct risky businesses in the run-up to a crisis, or make it easier for politicians to accept the serious real economic consequences of letting financial institutions of any size fail. Thus, TBTF financial institutions still enjoy a more or less implicit advantageous position vis-á-vis their smaller competitors and it seems doubtful that SRRs will do much to change this.

2. What is a Special Resolution Regime?

The basic idea behind special resolution regimes for financial institutions is to avoid what is considered two suboptimal solutions to bank crises, namely disorderly bankruptcy or a bail-out of creditors. During the recent crisis, the first kind of solution was used in the case of the investment bank Lehman Brothers, while a couple of days later the second option was used when the insurance company AIG was bailed out using public funds. Both solutions were problematic in their own right. Bail-outs throw public money after failing financial institutions and create an increased incentive for financial institutions to grow bigger and bet on being saved by taxpayers in a future crisis. Bail-outs also break with the principle that taxpayer funding is the last resort, and instead the subordinated creditors that have been paid for taking on risk are ranked ahead of taxpayers when it comes to loss absorption. Bankruptcy, on the other hand, wipes out shareholders and forces hair-cuts on creditors. However, given that bankruptcy procedures work relatively slowly and do not take financial stability into consideration, there is significant risk of creating uncertainty and contagious disruptions in financial markets (see Cihak and Nier 2009; Dewatripont and Freixas 2012).

Viewed from a political perspective, SRRs may be thought of as an institutional innovation in distributional battles between the state, taxpayers and the different financial industry actors. As argued by Mahoney and Thelen (2010), institutions inevitably raise resource considerations and invariably have distributional consequences, and since any „set of rules or expectations – formal or informal – that patterns action will have unequal implications for resource allocation“ (p. 8) it is helpful to see the rise of SRRs also as a power struggle. Specifically, to understand the significance of the new resolution policies, we should see them as the state's manipulation of property rights (Campbell and Lindberg 1990). In such a perspective, property rights confer power and are rules that constrain, enable and locate decision-making power over assets (Carruthers and Ariovich 2004), and so bankruptcy law (whether in its standard form or as SRRs) exemplifies latent, property-rights-based regulation that constitutes a central part of a state's capacity to govern and transform a society's economic organization. Thus, property rights not only determine the relation an actor has to his or her property, but also in a broader perspective define the institutional basis for power relations in production, exchange and accumulation (Campbell and Lindberg 1990). In other words, when banks are governed under a special resolution regime that gives the state greater intervention power and discretion at the expense of creditors, shareholders and debtors, this at basis constitutes a potentially significant change in power relations.

To understand the significance of the new resolution policies, it is helpful to compare them to standard bankruptcy law. The fundamental difference between normal corporate bankruptcy procedures and the way special bank resolution regimes function, lies in the coordination problem that they are trying to solve (Marinc and Vlahu 2012, ch. 2). The objective of corporate bankruptcy law is to identify the optimal point of bankruptcy for creditors and create incentives for creditors not to collect their debt prematurely, i.e. cause a run on the corporation by its creditors at a point where the corporation is worth more as a going concern. From an economic point of view, corporate bankruptcy thus aims to promote efficiency in the relationship between debtor and creditor both ex-ante (when the debtor is solvent) and ex-post (when the debtor is already insolvent) (Marinc and Vlahu 2012, 5). As a contrast, the primary objective of special bank resolution policies is to protect financial stability, which often comes at the expense of creditors, shareholders and depositors (with deposits below a certain maximum amount covered by deposit insurance).

Bankruptcy in case of bank failures is more complicated than normal corporate bankruptcy (see Marinc and Vlahu 2012, ch. 3; Attinger 2011). A primary function of banks is to provide liquidity to their creditors (in the form of liquid demand deposits) and to their borrowers (in the form of loan commitments), and a rapid dismantling of the bank's liability side or a freezing of bank debt cannot be imposed without hindering the liquidity provision function of a bank. This means that in contrast to corporate bankruptcy that aims to provide a breathing space for an insolvent company, special bank bankruptcy policies aim at quickly resolving the institution to lower the costs of illiquidity.

The ultimate goal of safeguarding financial stability can be achieved in three ways: through prevention, early intervention and a number of resolution powers. First, SRRs are supposed to deter financial institutions from taking on too much risk and behaving irresponsibly in the first place. They do so by posing a credible commitment to wind down financial institutions of any size. Moreover, requiring systemically important financial institutions to draw up resolution and recovery plans subject to approval by authorities, reflects the basic intention to reduce the impact of a possible systemic failure. Such a 'living will' would typically be a document that describes the different lines of business of the institution, its assets and liabilities, operational interdependencies like information technology, and more generally how different kinds of crises could be handled in a way that either recovers or resolves the institution (Herring 2011; Avgouleas et al. 2013; FSB 2011)

Second, to avoid systemic consequences of a crisis in a financial institution, SRRs enable authorities to intervene at an earlier point than in the case of corporate bankruptcy and often without the consent of shareholders or creditors. They do so by granting authorities *enhanced early intervention powers*. This is maybe the trickiest part of SRRs, because it directly impacts on the property rights of the owners of financial institutions and their creditors. To avoid systemic consequences of the failure of a financial institution, authorities have an interest in intervening at a pre-insolvency stage, i.e. to avoid actual liquidation of the financial institution and instead restructure and reorganize it as a going concern while it still has positive net worth. This procedure is in important ways different from standard bankruptcy procedures, since the resolution authority can embark on sales and other actions without waiting for a reorganization plan to be developed and approved by a bankruptcy judge (DeYoung et al. 2013). As argued by Attinger (2011, 9), „the bank as a debtor remains in the market and, therefore, it is more difficult to justify why (i) creditors should be deprived of (part of) their claims; and (ii) shareholders should accept an interference in their rights."

Third, SRRs grant authorities a number of *resolution powers*. Though obviously there are variations in which powers each regime has, what is common across all of these tools is the absence of a subsidy to existing shareholders, and the imposition of losses on creditors, relative to a situation where the firm is bailed out (Cihak and Nier 2009). One of the most central tools is the technique of bailing in creditors. In short, this is a restructuring mechanism to recapitalise a firm upon the occurrence of a trigger event through the write-down or conversion of uninsured or unsecured debt instruments into equity (a debt-to-equity-swap) (FSB 2013, 3). The writing down of claims has the envisaged benefit of re-establishing the firm as a going concern by boosting the bank's equity capital, while shielding taxpayers from losses. A certain amount of 'bail-inable' debt is supposed to be part of the Basel III regulation, but exactly how the process would work and how much of such debt would be required remains uncertain at this point.

Another central resolution tool is the 'bridge bank'-tool. Bridge banks are temporary institutions created by the resolution authority to take over the operation of the failing institution and preserve its going concern value, while the resolution authority seeks a permanent resolution of the failure. In the words of Cihak and Nier (2009, 16), „The bridge bank tool allows the resolution authority to 'bridge' the gap between an institution's failure and the time when a suitable purchaser has been found". Other popular tools are a sale of business tool that enables authorities to sell off a failing financial institution without shareholder consent; a good bank/bad bank split, where authorities remove the most healthy assets of a failing institution and sell it off, while toxic assets are placed in a special purpose entity and then more slowly liquidated; and the temporary public control or nationalization of a failing institution.

The increased power of the state that follows from the setting up of SRRs is perhaps most clearly evident in the creation of the early intervention tools and special resolution powers that may enable the state to overrule shareholder and creditor rights. Thus, early intervention powers limit the rights of both creditors and shareholders, because they lose their property even though the bank is resolved as a going concern, i.e. the financial institution or parts of it continue to exist. One example of bypassing fundamental rules of bankruptcy – specifically the rules that govern the distribution of assets in liquidation (see Carruthers et al. 2001, 103) – is found in the resolution tool of partial transfer of deposits and assets to a 'good bank'. The transfer of deposits and assets to a 'good bank' without basis in rules on creditor ranking opens up the possibility that some creditors (e.g. junior debt holders) are 'left' in the bad bank while others (e.g. depositors) have their claim transferred to a good bank. (Cihak and Nier 2009, 16). Though there might be good reasons from the perspective of financial stability in breaking such rules, it nonetheless constitutes not just a technical fix but also a tool of power for the state to use (or not).

Second, through the institutionalization of certain legal and economic mechanisms that may be used for selectively bailing out creditors and depositors of failing financial institutions, authorities are given enhanced discretion in dealing with claims on a failing institution. With the new policies in place it will be easier to cherry-pick creditors that are to be made whole for example in a bridge bank-construction, because authorities often are given greater administrative discretion at the expense of judicial review. Thus, special bank resolution regimes generally give authorities more power over financial institutions in distress, but do not rule out bailing out failing financial institutions. If anything, it enables a smoother bailout of financial institutions deemed too big to fail. Rather than signal the end of TBTF, the creation of SRRs, then, may instead signal a more explicit realization on the part of the authorities that a system of bailing out large financial institutions requires a stronger institutional foundation than reflected in ad hoc decisions during a crisis.

3. Lessons from the Danish SRR

Danish crisis management consisted of a number of policies put in place with the intention of stabilizing the Danish financial sector. Popularly the policies are called Bankpackage I-V. The first two bank packages sought to help Danish banks re-access international funding – first through a state guarantee of all deposits, excluding covered bonds (Bankpackage I), then through capital injections (Bankpackage II). Bankpackage III is the Danish special resolution regime, while bankpackage IV is a dowry scheme that subsidizes takeovers of weak financial institutions. Finally, Bankpackage V was created more specifically to support a relatively large bank – FIH Erhvervsbank – in liquidating a number of its assets in an orderly way. This article focuses on bankpackage III-V, because these are most relevant for understanding the Danish SRR[1].

3.1 The Danish SRR

In 2010, about a half a year before the state guarantee expired, work started on creating an SSR in Denmark. Parts of the institutional setup for the new SRR had already been created through Bankpackage I, namely the winding up company 'Finansiel Stabilitet' (Financial Stability), which had as a primary task of securing the payment of creditor claims on wound-up institutions and handling the controlled dismantling of financial institutions that no longer met solvency requirements. The authorities had two primary priorities in their work on the new regime: First, that it should ensure that normal costumers were reasonably covered by a deposit guarantee, and that they could access their account and use, for instance, credit cards the Monday after the resolution procedure had begun. Second, that creditors could be bailed in and pay for resolution relieving the taxpayers of the bill for resolving ailing banks. Relating to the latter challenge, the resolution regime was designed – as the only scheme in Europe at that time – to ensure that in a resolution senior bondholders suffer losses before the resolution fund. The scheme was constructed so that if a bank chooses to be unwound under the scheme, a subsidiary company is established under a state-owned resolution company, called Financial Stability, that takes ownership of assets and some liabilities, subsequently wiping out shareholders and giving senior bondholders a hair-cut on their investment.

The new regulation, implemented in October 2010, was first tested when Amagerbanken, at the time Denmark's fifth largest bank, became insolvent in February 2011. The bank was nicknamed 'Armageddonbank' in the international financial press because creditors for the first time in modern European history suffered hair-cuts on their investment. Thus, in accordance with the Danish SRR, Amagerbanken was selectively bailed out with a transfer of assets and a partial transfer of liabilities. Holders of the bank's senior unsecured debt thus swallowed a 41 per cent writedown on their investment (Bloomberg 2011)[2]. The international money markets were quick to respond. With the possibility of encountering a significant hair-cut, investors were suddenly reluctant to lend most Danish banks money (Financial Times 2011a). In May 2011 the credit rating agency Moody's downgraded six Danish lenders, including the country's biggest bank, Danske Bank, citing explicitly the lack of „systemic support" for the banks. These developments made the Danish authorities wary. Supposedly, as reported by Financial Times (2011b), making things tougher for surviving banks 'was not the idea' when the Danish authorities allowed a state guarantee of bank liabilities to lapse two years after it was introduced. Thus, in summer 2011 a first step was made to avoid using the resolution regime, by creating a supplementary 'dowry-scheme' that made it possible to supply a dowry to cover the exposures of a distressed banks' creditors and depositors for a healthy bank interested in taking over the bank. However, in June 2011 it turned out that the dowry-scheme was not effective in getting a buyer for the small bank Fjordbank Mors, which subsequently entered the normal winding-up process of Bankpackage III, once again grabbing the attention of the international capital markets[3].

Following the realisation that the Danish bail-in scheme had been too ambitious at that point of the crisis – exposing Danish banks to unwanted pressure from the capital markets – in August 2011 a new policy envisaged as an alternative to the bail-in scheme was passed in agreement between opposition and government, popularly called Bankpackage IV. The aim of the new scheme was to subsidize takeovers in an effort to ensure that troubled banks were not forced to resort to the new resolution framework. The bill contained two parts. First, the existing dowry-scheme was expanded. Now a healthy bank could take over either the whole of the distressed bank – where the state offers a dowry of the size of the cost that the state would have incurred had the distressed bank been unwound using the SRR – or only take over the good parts and leave the toxic assets to the state. In the latter case, the dowry paid the expenses that the state incurred in winding down the bad loans. The transaction is subsidized by the Danish Guarantee Fund, which is financed collectively by the Danish banking sector. Second, a state guarantee can be granted in two instances: either where a fusion between two banks leads to the maturing of loans taken out by the distressed bank, that the state then guarantees for the remaining period; or when two banks merge and one of the banks already has an individual guarantee as part of previous crisis measures, in which case the banks can obtain a new state guarantee with a maturity up to three years.

The small Max Bank became Denmark's first insolvent lender to test the ability of the new dowry-scheme to sidestep the bail-in laws of Bankpackage III. As such, the authorities were successful as Sparekassen Sjælland ended up taking over the healthy parts of Max Bank while the state assumed the bank's bad loans. Senior creditors were thus spared, while shareholders lost their investments. Bankpackage IV was once again put to use in January 2012, when the two banks Aarhus Lokalbank and VestjyskBANK merged. What made their use of the dowry scheme interesting was that the two banks were both deemed unhealthy, and yet – in contrast to the spirit of Bankpackage IV and only after a quick amendment of the law made it possible – the authorities welcomed the merger and agreed to renew the individual state guarantees of the two banks.

In March 2012, the fifth and so far final Bankpackage was issued in agreement between government and opposition. Though the term 'bankpackages' alludes to a certain degree of generality in the policy, it was actually specifically aimed at strengthening one bank, FIH Erhvervsbank, the fifth largest bank in Denmark. Following Bankpackage V, building sector loans for around 17 billion DKr were taken over by the state liquidation company Financial Stability, with FIH Erhvervsbank making an unlimited guarantee on the losses that the state incurs and the state taking up to 25 per cent of a possible future upside. The background for the initiative was that, as part of Bankpackage II, FIH Erhvervsbank had received individual state guarantees for 42 billion DKr that need refinancing in 2012–13. With the low credit rating of FIH Erhvervsbank and the generally difficult circumstances surrounding financing in international markets, the bank had started an aggressive practice of terminating loans that especially hit the already heavily pressured building sector as well as other creditors (notably small banks). Now that the bank could shift some of its most problematic loans to Financial Stability, it did not have to refinance these loans and could instead focus on its core business of lending to small and midsize companies. Though officially a comparable possibility was open to others 'in a similar situation', the chairman of the board of Financial Stability noted that he knew of no other similar cases in Denmark and openly admitted that the in principal opening for other banks was only for political reasons.

3.2 Danish lessons

The Danish case offers a number of lessons about the role of SRRs in post-crisis financial regulation. First, the regulation and organisation of the Danish SRR seems to signify an institutionalization of a more direct and powerful state role in governing the Danish financial sector. Before the implementation of the Danish SRR, the state played an active albeit more informal role. It did so by fostering private solutions for banks in trouble by putting pressure on other healthier banks to take an active role, for example by offering considerable tax deductions to incentivize the banks to take over their weaker competitors. The institutionalization of the active role of the state in Danish banking crises is perhaps most clearly seen in the development of the resolution company Financial Stability. The aim of Financial Stability developed from a simple liquidation company to a more pro-active and powerful instrument of the authorities, one clear example being the way Financial Stability helped FIH Erhvervsbank survive and develop rather than simply liquidating the institution. Financial Stability turned out to provide more direct access to distressed banks, for example in their role as negotiators of the terms of the individual state guarantees of Bankpackage II as well as overseeing the bidding process in relation to the unwinding of distressed banks (choosing who could bid and at what price) and putting their own people on the boards of banks close to failing. In sum, the Danish SRR is not a move towards a more market conforming approach to bank resolution, but rather constitutes an institutionalization of the role of the state in bank crises.

Second, the Danish bank resolution regime remains the only regime that has actually used one of the resolution tools that international policy elites put most of their faith in, namely the bailing in of creditors (see section two)[4]. Here the message is generally negative: though the authorities in two cases actually used the resolution regime and forced creditors to take hair-cuts on their investment, the consequences for other Danish banks – whose position the authorities had no interest in hurting – were dire. Part of the reason why the Danish authorities were not more successful in using their resolution regime is that they seem to have disregarded that Denmark is a small open economy and so exposed their banks to 'unfair competition' with other financial systems. If, for example, the American authorities choose to let creditors suffer, other presumably healthy banks in their sectors would not be shut out of the international capital markets as happened in the Danish case. However, studying the American system does not give the impression that the authorities will use the market power of the American or British financial system to force a bail-in of creditors. Rather, they seem keen to keep merging ailing institutions while trying to avoid too much turmoil in the markets (Carstensen 2013a; see also Attinger 2011).

Third, the Danish case is filled with examples of how SRRs may work as a tool for political interests. Among the most prominent are the cases of FIH Erhvervsbank and VestjyskBank. In the case of FIH Erhvervsbank, the authorities broke the principle that Financial Stability was only a liquidation company for destitute banks and instead actively supported the bank by taking toxic assets amounting to 17 billion DKr off their books even though the bank was not close to insolvency. The reason: to avoid that the bank liquidating their assets too fast and in a way that would hurt a large number of struggling farmers and construction businesses. Another case where the SRR was used in a politically opportune way was the case of Vestjysk Bank, where the state gained a majority of the shares in the bank and kept it alive despite being very close to failure a number of times. As mentioned, bankpackage IV was also changed so weak financial institutions could merge and obtain an extension of state guarantees. This was done to keep Vestjysk Bank and the many over-indebted farmers that were customers of the bank afloat. On the other hand, in the case of a number of other banks that have been less politically important to maintain, crisis management has been significantly harsher. The most prominent examples are the cases of Amagerbanken and Fjordbank Mors, where the haircuts on creditors following the sell-off of assets so far have amounted to approximately 15 per cent. This might indicate that the assets in the banks were undervalued by Financial Stability and the Danish FSA and hence that the banks were actually solvent. These cases illustrate how SRRs can lend authorities more flexibility in crisis management, and thus how SRRs may function not just to counter 'moral hazard' in the financial industry but also as a political tool.

Fourth, the Danish case does not lend support to the idea that SRRs can work effectively to avoid bailouts, most notably by illustrating the difficulties of letting creditors of banks of any size suffer losses. Starting from the relatively market conforming approach of letting creditors suffer haircuts in bankpackage III, the Danish authorities ended up adopting bankpackage IV that either bails out creditors through subsidized mergers – funded collectively by the Danish banking sector – or, in a different version of a bailout, offers extensions on state guaranteed bonds to more or less healthy institutions. With the hope of avoiding a crisis in the first place in the largest financial institutions – the so-called Systemically Important Financial Institutions (SIFIs) - the government has proposed stricter capital requirements of up to three per cent of risk weigthed assets (SIFI Committee 2013, Ministry of Business and Innovation 2013). The big question remains if it is realistic that the authorities will accept the real economic consequences of resolving a bank that controls more than 30 per cent of all assets in the Danish financial sector (like Danske Bank), and if it is technically possible to do so without severe systemic knock-on effects.

It is important to acknowledge that the credibility of a commitment to wind down SIFIs is not based solely or even mostly on having the right resolution technologies in place. What might very well turn out to be more important is the politics of such a manoeuvre. That is, to wind down a SIFI it is necessary for the resolution authority to be independent of the ensuing political ramifications, which in turn might be problematic from a democratic point of view. One recent example of this is the bailing in of creditors and some depositors in a number of the largest banks in Cyprus. In that case, one could argue that the Cypriot banks were wound down because the electoral/democratic connection between those deciding to bail in and those suffering from the bail in was severed. Put differently, it was much easier for European leaders to insist on bailing in creditors, because neither their own banks nor their constituents were hurt in the process. That, however, does not make the commitment of the European leaders to wind down their own SIFIs more credible.

4. Conclusion

Policy elites and academic economists generally conceive of SRRs in functionalist terms, i.e. as a technological fix that together with more stringent capital and liquidity requirements may help avoid a future crisis like that recently experienced in the international financial system. Not disregarding the particular merits of this perspective, it is important to see that like most institutions, SRRs entail battles between actors with considerable distributional consequences. SRRs are political tools that to a larger or lesser extent enable authorities to govern the financial system. This means that SRRs may be directed towards other goals than the ones officially sought by public officials. One obvious example is the TBTF problem. SRRs are officially aimed at enabling authorities to wind down financial institutions of any size without serious effects on the financial system and the real economy, but they are also useful in conducting bailouts in a more controlled and institutionalized way. With the implementation of SRRs, authorities can bail out TBTF financial institution using legally institutionalized rules rather than the ad hoc crisis management that characterized crisis management in the recent crisis.

SRRs are a relatively recent add-on to the international financial regulatory framework, and we have yet to see just how effective they will be in deterring risky behavior and avoiding the disorderly resolution of banks in crisis. However, as suggested above, the Danish case offers an interesting first look at how SRRs may work. As such, the Danish case does not support the conclusion that SRRs signal a return to a more market conforming relation between the state and the financial sector. Instead, the otherwise relatively ambitious SRR of bankpackage III has been replaced by a dowry scheme that bails out creditors through subsidized mergers. In other SRRs, like for example the American, SRRs embody a more flexible approach to crisis management and not necessarily an end to bailouts. In that light it seems more probable that in the future authorities will take on an even more active role in managing crises and that SRRs will play a central role in legitimizing this move.

Notes

1. For a more general introduction to the Danish financial crisis and the Danish authorities' crisis management, as well as analysis of the first five Danish bank packages, see Carstensen (2013b) and Kluth and Lynggaard (2013). On the sixth bank package – that deals with the identification and regulation of SIFIs – see the Ministry for Business and Growth (2013)
2. This has later been changed to a 16 per cent write-down. Newspaper reports are speculating that the write-down might end up even smaller. If creditors end up getting paid in full this might put in question the evaluation of Financial Stability that led to the closing of the bank.
3. Senior creditors of Fjordbank Mors were expected to suffer haircuts of around 26 per cent. As in the case of Amagerbanken, the haircuts have since been reduced significantly, to 14 per cent.
4. Recently bondholders and depositors not covered by deposit insurance were bailed in in Cyprus. This case, however, was markedly different from normal SRR, because the bail-in was a requirement to receive a rescue package to the economy.

References

Attinger, B J 2011, 'Crisis Management and Bank Resolution: Quo Vadis, Europe?', *Legal Working Paper Series*, no. 13/ December 2011, European Central Bank.

Avgouleas, E; Goodhart, C and Schoenmaker, D 2013, 'Bank Resolution Plans as a catalyst for global financial reform', *Journal of Financial Stability*, vol. 9, no. 2, pp. 210-218.

BCBS 2011, *Resolution policies and frameworks – progress so far*, Basel: Bank for International Settlements.

Bloomberg 2011, 'Amagerbanken Senior Bondholders to Suffer Losses', Bloomberg.com, 7 February. Available from: http://www.bloomberg.com/news/2011-02-07/amagerbanken-senior-bondholders-to-suffer-losses-in-bailout.html

Campbell, J L and Lindberg, L L 1990 'Property Rights and the Organization of Economic Activity by the State', *American Sociological Review*, vol. 55, no. 5, pp. 634-647.

Carruthers, B G and Ariovich, L 2004, 'The Sociology of Property Rights', *Annual Review of Sociology*, vol. 30, pp. 23-46.

Carruthers, B G, Babb, S L and Halliday, T C 2001, 'Institutionalizing Markets, or the Market for Institutions? Central Banks, Bankruptcy Law, and the Globalization of Financial Markets', in J L Campbell and O K Pedersen (eds.) *The Rise of Neoliberalism and Institutional Analysis*, Princeton University Press, Princeton and Oxford.

Carstensen, M B 2013a „The Promise and Peril of Smallness in World Markets", pp. 177-193 in Francisco Panizza and George Phillip (eds) Moments of Truth: The Politics of Financial Crises in Comparative Perspective, New York, NY: Routledge

Carstensen, M B 2013b „Projecting from a Fiction: The Case of Denmark and the Financial Crisis", *New Political Economy*, 18 (4): 555-578

Cihak, M and Nier, E 2009, 'The Need for Special Resolution Regimes for Financial Institutions – the Case of the European Union', *IMF Working Paper,* WP/09/20.

Dewatripont, M and Freixas, X 2012, „Bank resolution: a framework for the assessment of regulatory intervention", *Oxford Review of Economic Policy*, 27 (3): 411-36.

DeYoung, R; Kowalik, M and Reidhill, J 2013, 'A theory of failed bank Resolution: Technological change and political economics', *Journal of Financial Stability*, forthcoming.

Financial Times 2011a, 'Concerns Grow over Denmark's Bail-in Rules', *Financial Times*, 24 May, p. 24.

Financial Times 2011b, 'Danish Lessons: Costlier Funding is a Normal Consequence of Bail-ins', *Financial Times*, 27 May, p. 10.

FSB (Financial Stability Board) 2011, *Key Attributes of Effective Resolution Regimes for Financial Institutions*, Bank for International Settlements, Basel.

FSB (Financial Stability Board) 2013, *Thematic Review on Resolution Regimes: Peer Review Report*, Bank for International Settlements, Basel.

Goldstein, M and Véron, N 2011 'Too Big to Fail: The Transatlantic Debate', *Working Paper 11-2*, Peterson Institute for International Economics, Washington, DC.

Goul Andersen, J 2011, 'From the Edge of the Abyss to Bonanza – and Beyond. Danish Economy and Economic Policies 1980-2011', *Comparative Social Research*, vol. 28, pp. 89-165.

Haldane, A G 2013, 'Have we solved 'too big to fail'?' *VoxEU*, 17 January 2013, http://www.voxeu.org/article/have-we-solved-too-big-fail

Herring, R J 2011, 'The Central Role of Resolution Policy in Dealing with Systemically Important Financial Institutions', unpublished manuscript, downloaded from http://fic.wharton.upenn.edu/fic/papers/11/11-71.pdf

Kluth, M and Lynggaard, K (2013). 'Explaining Policy Responses to Danish and Irish Banking Failures during the Financial Crisis' *West European Politics*, 36 (4): 771-788.

Mahoney, J and Thelen, K 2010, 'A Theory of Gradual Institutional Change', in Mahoney, J and Thelen, K (eds) *Explaining Institutional Change: Ambiguity, Agency, and Power*, Cambridge University Press, Cambridge.

Marinc, M and Vlahu, R 2012, *The Economics of Bank Bankruptcy Law*, Springer-Verlag, Berlin, Heidelberg.

Ministry for Business and Growth (2013) „Broad Agreement on new requirements for banks", retrieved on the 14. November 2013 from http://www.evm.dk/~/media/oem/pdf/2013/2013-pressemeddelelser/10-10-13-pm-vedr-sifi-aftale-xxxxxx/pm-en.ashx.

SIFI Committee (The Committee on Systemically Important Financial Institutions in Denmark) 2013, *Financial Institutions in Denmark: Identification, Requirements and Crisis Management,* Ministry of Business and Growth, Copenhagen.