



Public hearing on GLs on triggers for early intervention and resolution

London, 10 November 2014

Outline

1. Interplay between CRD and BRRD
2. GL on early intervention triggers
3. GL on failing or likely to fail
4. Questions

1.1. Interplay between supervision and resolution

The way a bank might 'die' affects its 'life'

Examples of interplay between supervision and resolution:

- Triggers for early intervention and resolution
- Overcoming impediments to resolvability: interplay with requirements for business as usual (BAU) and structural requirements
- Intra-group financial support
- Valuation and interplay with accounting and prudential rules for BAU
- Valuation of derivatives
- Bail-in and MREL and interplay with banks' capital structure
- Recognition of bail-in in Third Countries
- Information required to build resolution planning and execute resolution

1.2. Interplay between CRD and BRRD

CRD

authorisation, minimum requirements, on-going supervision (SREP)

CRD sets requirements for (among others):

- **Authorisation** (including own funds, liquidity, governance, internal controls etc.)
- **Minimum own funds and liquidity**
- **On-going supervision** (SREP)
- **Supervisory measures** (including additional own funds and liquidity)

➔ Tasks for competent authorities

BRRD

recovery and resolution framework

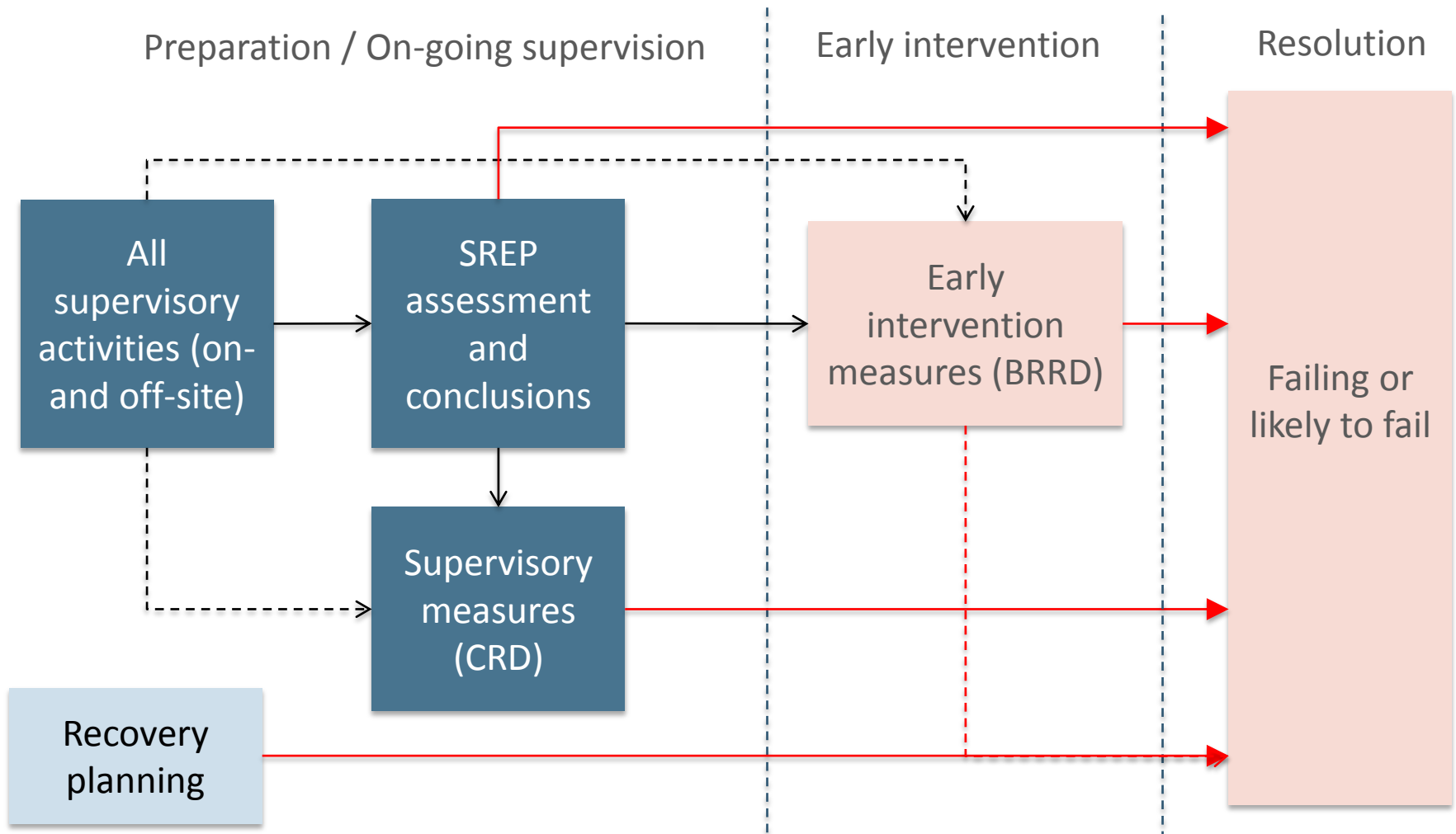
The BRRD establishes three pillars:

- **Preparation** (recovery and resolution planning)
- **Early intervention** (i.e. application of early intervention measures specified in the BRRD)
- **Resolution** (application of resolution tools based on determination that an institution is failing or likely to fail)

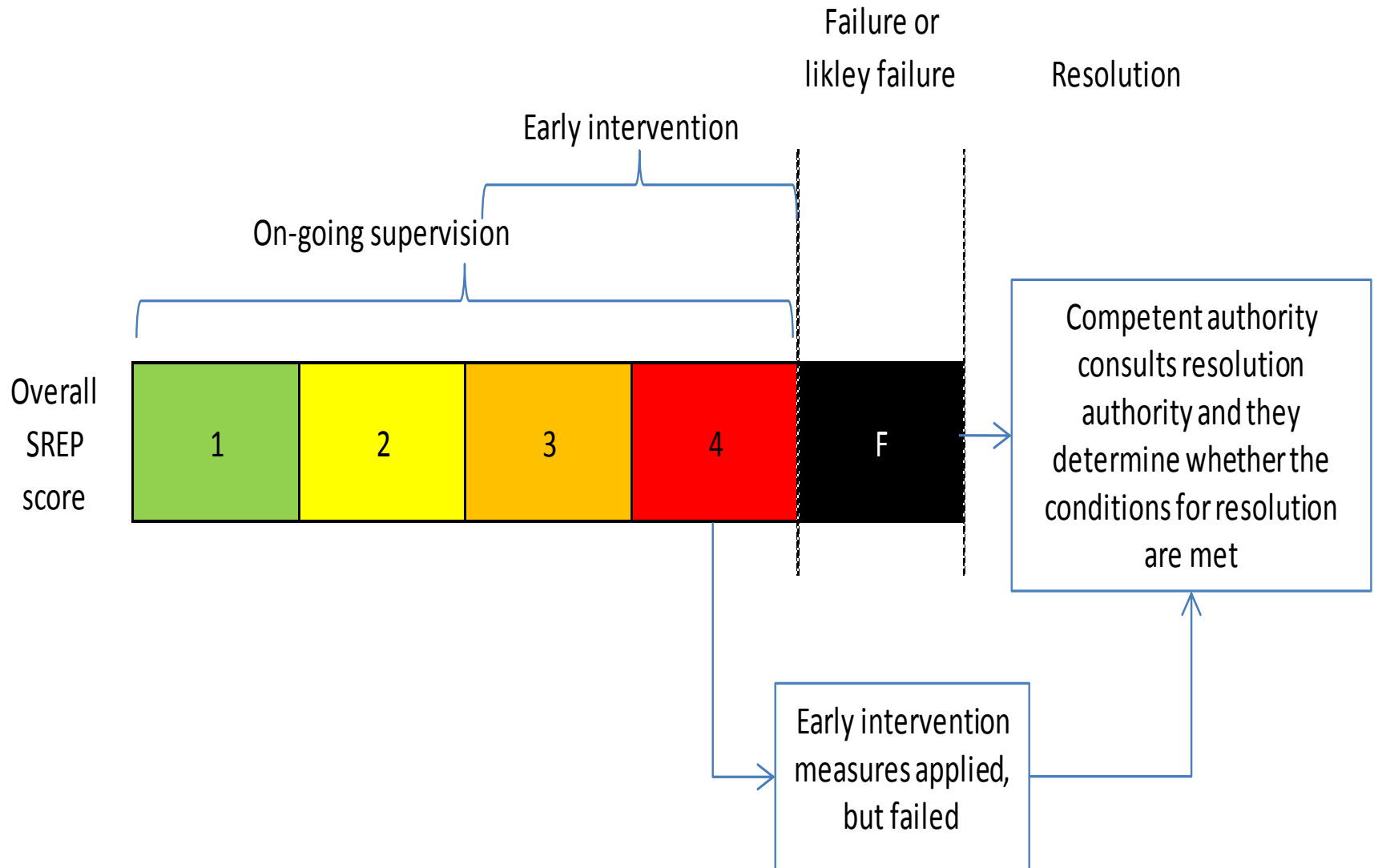
➔ Tasks for competent authorities and/or resolution authorities

Goal ➔ To ensure continuum and consistency between on-going supervision (SREP), early intervention and resolution

1.3. Continuum between on-going supervision, EI and resolution



1.4. Using SREP scores as a link



1.5. Interplay explained in the Guidelines

GL on common procedures and methodologies for SREP

Assessment framework (SREP elements)

Assessment process

Assessment methodology

Scoring (definition and application)

Application of supervisory measures

GL on triggers for EI

Triggers based on SREP outcomes (scores)

Triggers based on findings from the SREP process (indicators)

'External' triggers: significant events

Decision on the application of early EI measures

GL on failing or likely to fail

Use of SREP outcomes in the determination done by CAs

Elements to consider when determination is done by RAs

Information exchange, including SREP info

1.6. Way forward

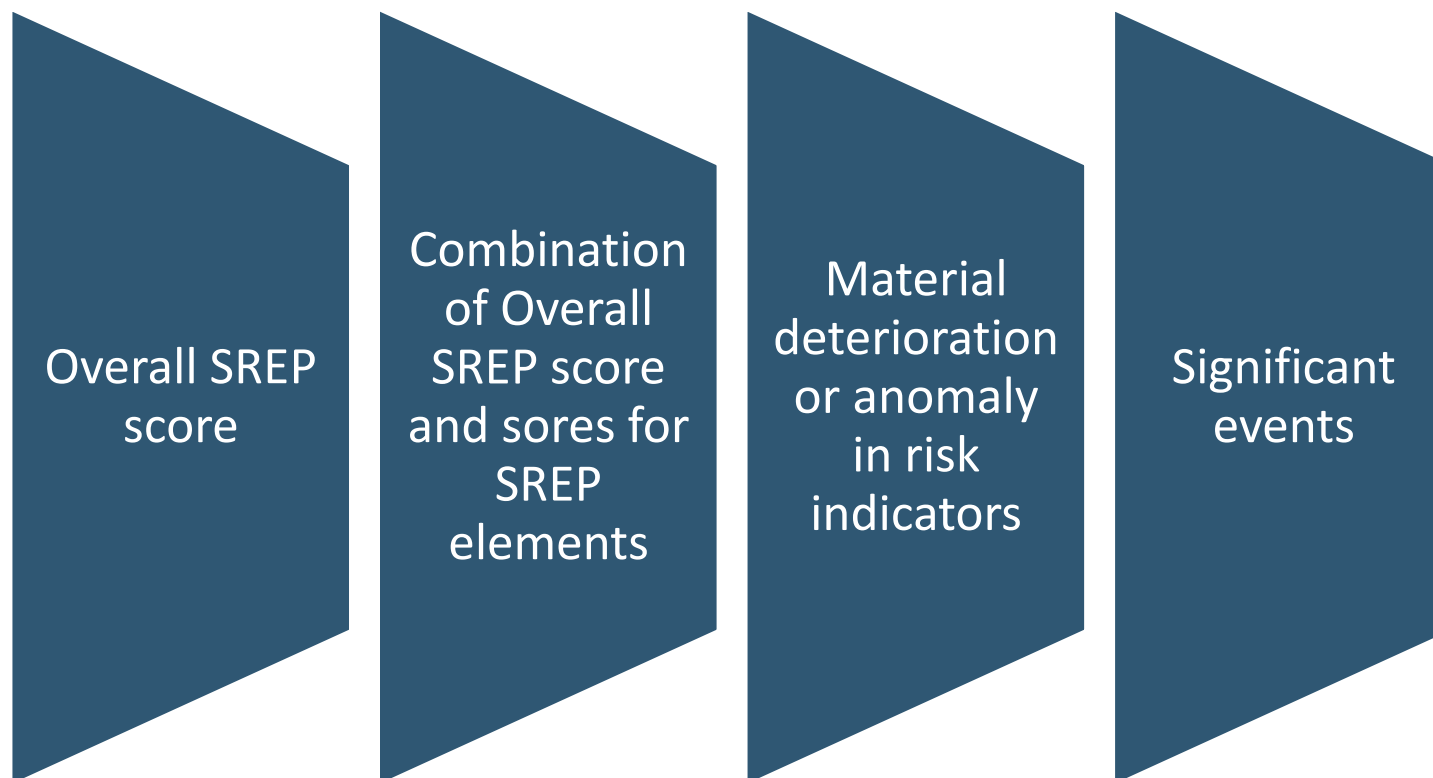
- **Guidelines on triggers for early intervention and Guidelines on failing or likely to fail**
 - Public consultations between 22 September and 22 December 2014
 - Final GLs are expected to be published in summer 2015

- **Guidelines on common procedures and methodologies for SREP**
 - Public consultations between 7 July and 20 October 2014
 - Final GL are expected to be published in Q1 2015

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2.1. Triggers for application of EI measures



Breaching the triggers should prompt (a) further investigation of the situation, if the cause is not known, and (b) decision on the application of early intervention measures

2.2. Triggers based on SREP outcomes

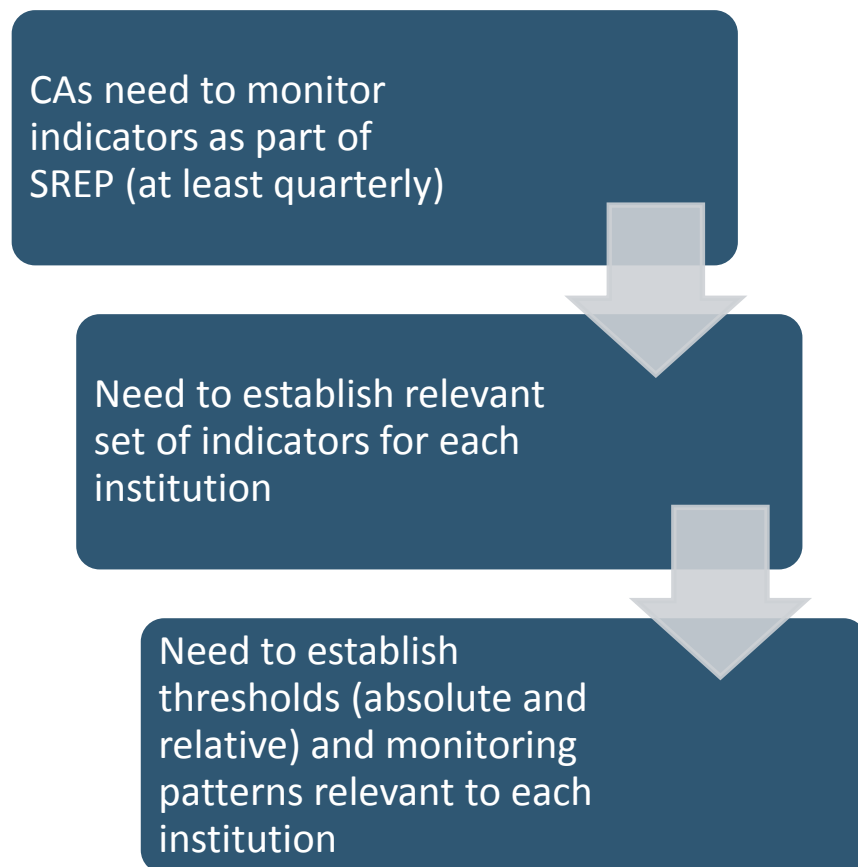
Overall SREP
score is “4”

Overall SREP
score is “3”
and

- Score for internal governance and institution-wide controls is “4”
- Score for business model and strategy is “4”
- Score for capital adequacy is “4” or
- Score for liquidity adequacy is “4”

- SREP scores are assigned based on the requirements of the EBA Guidelines for common procedures and methodologies for SREP

2.3. Triggers based on material deteriorations and anomalies in indicators



If monitoring reveals material deteriorations or anomalies in indicators, CAs should:

1. Determine the cause and impact
2. Document the outcomes of the assessment
3. Review the assessment of the respective SREP element and score in light of material information
4. If the revised score leads to the breach of the trigger → decide on EI measure

Depending on the significance of situation and materiality of potential impact CAs may in the interest of time simplify the process and decide on EI without updating the SREP assessment

2.4. Triggers based on significant events

Examples of significant events:

- Operational loss event
- Signals of the need to review quality of assets or conduct independent valuation of assets
- Adverse court rulings, fines, sanctions etc.
- Significant outflows of retail deposits
- Reputational damage
- Unexpected loss and no replacement of management body /senior management members
- Significant rating downgrades

If significant event occurs:

1. Determine the cause and impact
2. Review the assessment of the respective SREP element and score in light of material information
3. If the revised score leads to the breach of the trigger → decide on EI measure

Depending on the significance of situation and materiality of potential impact CAs may in the interest of time simplify the process and decide on EI without updating the SREP assessment

2.5. Application of EI measures

- Early intervention measures are specified in Art. 27 BRRD
- Upon breaching the trigger and positive decision on the application of EI measure, the competent authorities should choose the most appropriate measure to address particular situation
 - However, when the Overall SREP score of “4” is assigned competent authorities should specifically consider gathering information for the valuation of institution’s assets and liabilities
- Competent authorities can apply both supervisory measures (Art. 104 – 105 CRD) and early intervention measures (Art. 27 BRRD)

The triggers described in these GL do not prevent competent authorities from applying EI measures when triggers are not breached, but competent authorities see a clear need for early intervention

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3.1. Conditions for resolution

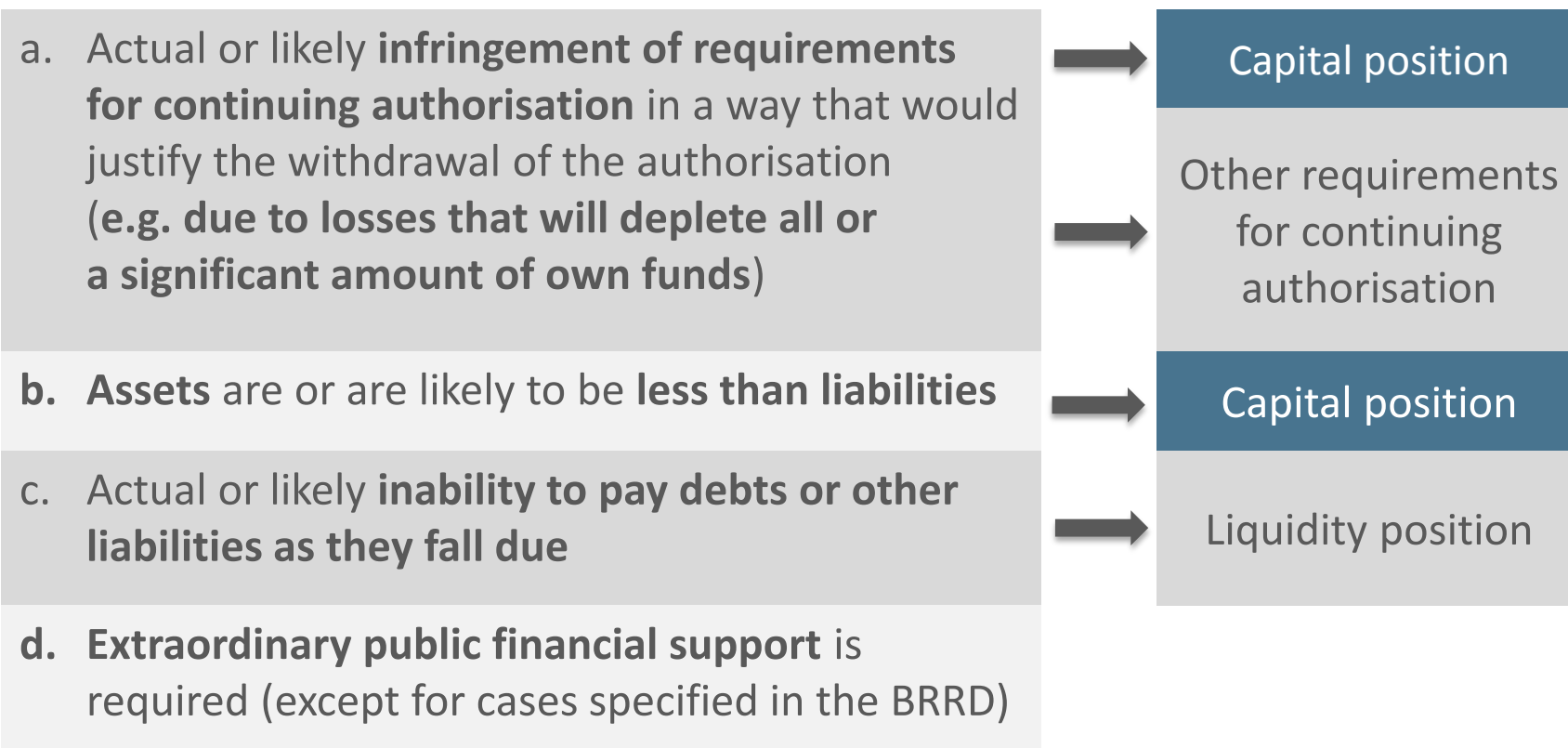
Art. 32(1) BRRD – conditions for resolution

1. Determination that an institution is failing or likely to fail
2. No reasonable prospects that alternative private sector or supervisory action would prevent failure
3. A resolution action is necessary in the public interest

A determination that an institution is failing or likely to fail does not automatically imply that a resolution action should be taken

3.2. Failing or likely to fail circumstances

Art. 32(4) BRRD - circumstances when an institution shall be deemed as failing or likely to fail



3.3. Role of the CA and RA

- Failing or likely to fail determination can be made by:



- **Different access to information** and interplay with institutions
- Guidance on **consultation and exchange of information** between CAs and RAs. On a continuous basis the CAs provide:
 - ✓ For all institutions: information on taking supervisory measures (Art. 104 CRD) and crisis prevention measures
 - ✓ For institutions with Overall SREP score of “4” or “F”: also additional information

3.4. Structure of GL on failing or likely to fail

General criteria

- Assessment of three areas: (i) capital position, (ii) liquidity position, (iii) other requirements for continuing authorisation

Determination done by the CA

- SREP assessment complemented by other sources of information (e.g. results of valuation, application of recovery options)

Determination done by the RA

- assessment of objective elements specified in the GL (based on information received from institutions and CAs)

3.5. Determination done by the CA

Triggers for determination that an institution is failing or likely to fail:

- Overall SREP score of “F”
- Overall SREP score of “4” and failure to comply with supervisory measures (Art. 104-105 CRD) or early intervention measures (Art. 27 BRRD)
- Failure in implementing relevant recovery options
- Results of valuation indicating that an institution has assets lower than liabilities or infringes capital requirements
- Notification received from an institution that it considers itself as failing or likely to fail

3.6. Determination done by the RA (1/4)

Criteria used for failing or likely to fail determination

Capital position

- Infringement of own funds requirements (e.g. due to incurred losses)
- Assets lower than liabilities

Liquidity position

- Infringement of regulatory liquidity requirements
- Inability to pay debts and liabilities as they fall due

Other requirements for continuing authorisation

- Governance arrangements
- Operational capacity to provide regulated activities

3.7. Determination done by the RA (2/4)

Capital position

Objective elements:

- Triggers used in determination done by the CA
- SREP elements, risk and indicators (if known to the RA)
- Results of asset quality review

Additional elements:

- Increase of costs of funding to unsustainable level
- Likely materialisation of significant off-balance sheet items
- Adverse developments in macro-economic environment
- Market indicators

3.8. Determination done by the RA (3/4)

Liquidity position

Objective elements:

- Triggers used in determination done by the CA
- SREP elements, risk and indicators (if known to the RA)
- Adverse evolution of: (i) liquidity position and funding profile, and compliance with Pillar 1 and Pillar 2 requirements for liquidity, (ii) liquidity buffer and counterbalancing capacity, (iii) current and future obligations
- Increase of costs of funding to unsustainable level
- Position in payment, clearing and settlement systems (especially difficulties in fulfilling commitments/execute payments)
- Severe reputational problems (e.g. significant rating downgrades)

Additional elements:

- Adverse developments in macro-economic environment
- Market indicators

3.9. Determination done by the RA (4/4)

Other requirements for continuing authorisation

Governance arrangements:

- Significant misstatements in financial/regulatory reporting
- A prolonged deadlock in the institution's management body
- Accumulation of material deficiencies in key areas of governance arrangements

Operational capacity to provide regulated activities:

- Lost reliability in fulfilling obligations towards creditors
- Inability to make or receive payments
- Lost confidence of market participants and depositors due to operational risks

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