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Loopholes in the Resolution Tools

The Monte Dei Paschi di Siena Case

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Abstract

The Resolution Tools lay out procedures and processes allowing ailing financial institutions to be wound-up orderly and without resorting to public funds. The possibility to enter resolution and therefore to avoid national insolvency procedures is subject to some well-defined requirements, which are going to be thoroughly described. Specific focus is hereby given to the case of the Monte Dei Paschi di Siena Bank, which provides for an outstanding example of missed resolution in the Italian and European financial scenarios; the rationale and motivations leading to the exceptional "Precautionary Recapitalisation" choice the bank has been made subject to are evaluated both in terms of legitimacy and practical suitability.

Key Words: Single Resolution Mechanism; Montepaschi di Siena; Precautionary Recapitalisation; Resolution Tools; Bank Recovery and Resolution Directive Soft law.

I. Introduction

The financial crisis of 2008 blew up many beliefs and certainties: ever-increasing amounts of debt were not the solution for economic expansion, banks were not immortal as it was generally thought, and derivatives were a double (or maybe even triple) edged weapon. The world has deeply changed since then, and the European financial scenario makes no exception.

Before the crisis, state aids to the financial sector were just vague and distant possibilities that no country was planning to use any time soon. The adverse course of things proved them wrong though, and in just a few years 400 cases of state aid to the financial sector popped up, amounting to EUR 5000 billion authorised by the European Commission¹. An immediate consequence of such public interventions has been the surge of public debt, which pushed many countries into bankruptcy or serious financial distress, creating a vicious circle that further got the world's financial scenario on its knees.

The European Union and its member states attempted to devise new courses of action in order to make the Union stronger and more resilient; one of these, has been the creation of the European Banking Union together with its three pillars, conceived to make the banking sector financially sound again and to ease state intervention in troubled banks, with the aim of avoiding new increases in public debt.

In this research paper the European Banking Union and the second pillar in particular, are thoroughly discussed and then applied to a recent case of bank recovery: The Monte dei Paschi di Siena. Why is this topic worth of attention? The financial institution has been in serious financial troubles for years, and despite the various public recapitalisations it has been subject to, its financial position has never really improved. The last rescue attempt has taken place in 2016, when the resolution procedure has been discarded in favour of a further public state aid intervention, though this time disguised under the name of "precautionary recapitalisation".

Among the smoking new resolution tools providing for private recapitalisations, why has it been decided to go for another public intervention? Was it because there was

¹ Deutsche Bundesbank, <https://www.bundesbank.de/en>

some missing requirement for resolution initiation? If yes, are then those requirements appropriate or are they in need of adjustments? Still, would the adoption of resolution, even if maybe not feasible on paper, have led to better results compared to the precautionary recapitalisation choice?

All these questions are going to be argued and answered in the next chapters.

II. Analysis

1. The European Banking Union

The idea of a banking union within Europe can be regarded as a substantial answer to all the potential problems stemming from the close relationship between the banking and the financial system of all the countries belonging to the European Monetary and Economic Area (i.e. EMEA).² In particular, the European Banking Union lies on three pillars:

- The Single Supervisory Mechanism (i.e. SSM) provides for a unique supervision of the European financial institutions as a whole, aiming at allowing the European Stability Mechanism (i.e. ESM) to directly recapitalise banks. In this context, the European Central Bank (i.e. ECB), together with national competent authorities (i.e. NCAs), are the bodies which carry out all such supervisory activities;
- Single Resolution Mechanism (i.e. SRM): this is the most relevant pillar for the purposes of this research paper, it indeed lies out tools aiming at managing deep and financial stability threatening scenarios, in order to guarantee proper liquidation procedures or recovery measures of the relevant financial institutions. The word "resolution" plays an important role here, indeed, it addresses all the procedures through which a competent authority performs banking restructuring activities, with the aim of keeping financial institutions' activities stable and operational, ensuring

² Commissione europea, Proposal for a council regulation conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions, 12/9/2012

reorganisation of the critical ones and guaranteeing proper insolvency procedures for those which cannot be restructured nor reorganised;

- The European Deposit Insurance Scheme (i.e. EDIS) takes care of the relevant differences as to how depositor protection mechanisms are managed throughout the European Union.³

2. The Single Resolution Mechanism

2.1 Introduction

This subchapter deals with the second pillar of the European Banking Union (i.e. the Single Resolution Mechanism) and on the reasons why it has been conceived; the main concept behind it is that a banking financial crisis might have serious repercussions on the government's finances where the troubled banks reside: in normal conditions (i.e. in the absence of any mechanism addressing banking crisis management), indeed, the government would be the one and only actor having to deal with the burden of saving the collapsing bank, where the word "saving" here provides for the usage of tax-payers' money and public debt issuance. One of the main collateral effects of this recipe is the worsening of public balances, which suffer from lower tax revenues; this, in turn, triggers a prompt increase in public debt that, in some cases, can reach such high values to cause a sovereign debt crisis. It is now reasonable to think that, in this scenario, a single mechanism for the resolution of banking crisis might turn out to be a useful alternative, able to tear off the close bond between public debt and financial institutions. The Single Resolution Mechanism is the European answer to the aforementioned problem. Within it, the European Stability Mechanism (i.e. ESM) has the power to inject funds into troubled European banks, providing for their recapitalisation without turning to public money.⁴

³ The three pillars of the banking union, Oesterreichische Nationalbank, <https://www.oenb.at/en/financial-market/three-pillars-banking-union.html>

⁴ Unione Bancaria, Il Sole 24 Ore, <https://argomenti.ilsole24ore.com/parolechiave/unione-bancaria.html>

2.2 What happens when different entities go bust?

The meaning of the word “resolution” has been set out in the previous section; nevertheless, it is now deemed appropriate to further deepen this concept and apply it to the European scenario, which is made up of small, medium and large financial institutions. In normal conditions, when an institution or corporation goes bust, the national insolvency laws of the country in which the party resides are applied: assets are sold, debts are repaid, and the business is closed down. This procedure is nowadays still applied to European small financial institutions, which can be easily winded down without significant repercussions (i.e. Banca Popolare di Vicenza and Veneto Banca are examples in which such procedure has been applied⁵). Some financial institutions, though, are considered to be “systemic” (i.e. Global Systemically Important Financial Institutions, also known as G-SIIs and Other Systemically Important Financial Institutions, also known as O-SIIs), meaning that, given their size and relevance in the financial scenario, they are more likely to threaten financial stability, create powerful negative externalities and contribute to market distortions.⁶ For this reason, it has been deemed necessary to regulate and devise a more complex and structured procedure for managing the failure of big, systemic banks, providing both for their recovery and resolution, to be used instead of the usual national insolvency laws. Without a set of harmonised laws, central supervision and effective communication among member states, liquidation processes were messy and enormously expensive, generating incommensurate effects on national economies, infecting and bringing member states to their knees.

2.3 The European answer and the structure of the SRM

The Single Resolution Mechanism is the pivot of the European Union’s answer to this problem. The primary objective of this set of measures no longer regards financial institutions’ checking and supervision, but instead it relates to a new, common and

⁵ Banca Popolare di Vicenza SPA, <https://www.bpvilca.it/comunicazionicommissari.asp>

⁶ European Banking Authority, Global and Other Systemically Important Institutions, <https://eba.europa.eu/risk-analysis-and-data/other-systemically-important-institutions-o-siis->

uniform resolution method applicable to all of them, in case of crisis or bankruptcy, governed by well-defined rules and limits of application.

The structure of the Single Resolution Mechanism has been conceived to be parallel with respect to the Single Supervisory Mechanism: it is responsible for the resolution of all member states' financial institutions which are part of the Banking Union; The SRM is made up of two different authorities,

- The Single Resolution Board, which is the single resolution committee; and
- The National Resolution Authorities.

The former has direct powers over Global Systemically Important Financial Institutions (i.e. G-SIFIs) and Other Systemically Important Financial Institutions (i.e. O-SIFIs). In 2018, for instance, 27 banks and 119 banking groups were subject to direct supervision. The latter (i.e. National Resolution Authorities) are responsible for the supervision, drafting and implementation of resolution plans of less significant banks within their member state, with the possibility of referring to the Single Resolution Board (i.e. in particular for countries which fall short of financial resources and competences). In the extreme case in which the troubled financial institution is in need of the Single Resolution Fund, the Single Resolution Mechanism states that the Board will be the one and only body in charge for taking care of the situation. To conclude, the Single Resolution Board has the duty of giving general instructions to the National Resolution Authorities and, further, report when these do not comply with European regulations and directives.⁷

2.4 How does the Single Resolution Mechanism work?

The Single Resolution Mechanism has the following dual structure:

- The Single Resolution Board (i.e. SRB),
- The Single Resolution Fund.

⁷ Bank Recovery and Resolution Directive (BRRD), European Commission, https://ec.europa.eu/info/law/bank-recovery-and-resolution-directive-2014-59-eu_en

The former is the main decision-making body empowered with resolution authority in Europe; it has the power to organise and establish resolution plans (together with National Resolution Authorities) for banks in financial distress through the usage of well-defined resolution tools and of the Single Resolution Fund, for which the body is also responsible for when it comes to systemic financial entities (i.e. subject to direct supervision of the European Central Bank). The SRB has direct responsibility for all resolution matters which provide for the usage of the SRF and further, it has ultimate responsibility for all Eurozone banks (i.e. its powers can be exercised anytime when deemed appropriate).

The work carried out by the Board and the National Resolution Authorities translates into examining financial institutions' critical functions, identifying all the potential issues which may come up when the resolution procedure is adopted and deciding which is the best solution for the troubled entity. One of the pivotal results of this process is the drafting of the "resolution plan", which lays out all the features of the bank under consideration and the strategy adopted for its resolution (i.e. which resolution tools are going to be used).

2.5 When is the resolution plan put into practice?

The aforementioned "resolution plan" is made practical when all the following conditions are fulfilled:

- The financial institution is bankrupting or is about to;
- There is no other suitable alternative provided by the private sector; and
- There is public interest in the resolution matter (i.e. national insolvency laws would not be a fair and proper solution).

When a financial entity finds itself into all three scenarios, the Single Resolution Board meets to discuss and draft a proper resolution plan for the upcoming crisis, which will be implemented by the National Resolution Authority of the member state. The stipulation and approval phase of such a plan consists of various passages which need to be followed.

The first mandatory step provides that all the financial entity's equity and debt instruments must be thoroughly checked; depending on their quality, then, they are converted (i.e. debt instruments into equity ones), devalued or sold. This process can be realised through the usage of the following resolution tools:⁸

- Sale of business: a part of the equity and debt instruments (or of the assets, depending which side of the balance sheet is considered) is sold to a private purchaser. Generally, such sale is carried out publicly (i.e. open sale), unless this is deemed to be detrimental to the financial stability of the member state, in which case the private procedure will be adopted; what is left of the bank is then wound-up. This tool is generally chosen when the entity performs essential financial services, which have to be kept in place for financial stability's purposes;
- Bridge bank: this tool provides for a "bridge" between two financial institutions; according to this, indeed, part of the equity and debt instruments are transferred to another party, temporarily. This agreement, though, comes with strings attached as the bridge entity must be publicly controlled and must retransfer the activities back within two years, which can be extended. The bank keeps on performing its critical activities;
- Asset Separation: this particular instrument has to be used in combination with one of the others; according to it, bad quality instruments (i.e. Non-Performing Loans, NPLs) are sold to a special kind of entity, called Asset Management Vehicle (i.e. AMV), which provides for their management with the aim of cleaning the bank up by carving out such troubled assets, where their traditional liquidation according to national insolvency laws would otherwise hinder financial stability and create market disruptions;
- The bail-in is maybe the most famous resolution tool which, contrarily to the bail-out (i.e. injection of tax-payers' money to restore banks' finances), provides for a conversion of liabilities (i.e. debt instruments which are written down) into equity instruments. The burden here is borne by shareholders and creditors, instead of the public. The aim of such tool is to reorganise and recapitalize the financial institution which, thanks to such conversion, absorbs all the losses incurred which led to resolution. It is worth noting that some liabilities (i.e. secured deposits, which do not exceed the value of EUR 100,000) are not converted.

⁸ Resolution tools, Single Resolution Board, <https://srb.europa.eu/en/content/tasks-tools>

Once the resolution plan has been drafted, the following step provides for two different cases, depending on the usage of the Single Resolution Fund. If the resolution plan does not involve the usage of more than EUR 5 billion of the SRF, the plan is to be considered adopted, unless otherwise requested by the parties within 3 hours after its presentation. If, on the other hand, the resolution plan involves the usage of more than EUR 5 billion, the whole process is frozen for a period up to one year, in order to evaluate the proposed resolution tools to be used and draft a binding guide for the executive session (i.e. the one which will put the resolution plan into practice). As soon as the Single Resolution Board has adopted a resolution scheme, it has to notify the European Commission for consultation; if there are no objections by the European Commission or the European Council within 24 hours, the scheme enters into force. It is now deemed important to point out some key facts of this particular step: among the objections which can be expressed, one worth noting relates to the case in which the European Commission suggests the European Council to object because either of the missing public interest (i.e. the bank is then wounded-down according to national insolvency laws), or for requesting a substantial change to the resolution plan (i.e. the Single Resolution Board provides for its modification). After the approval of the plan, its implementation is up to the National Competent Authorities under the supervision of the SRB which, in case of non-satisfactory action, can take full control of the resolution process.⁹

2.6 A couple of words on the Single Resolution Fund

The other main body within the European Stability Mechanism is the Single Resolution Fund (i.e. SRF); it is made of EUR 55 billion possibly used in order to simplify and smoothen resolution procedures for banks in deep financial distress. It aims at making up for all the bailouts proceeded during 2016 through the usage of public money; the sum which has been put together and which makes up the total amount of the fund comes from member states' national banks. In the resolution plans which provide for the use of the SRF, the Single Resolution Board and the Commission have to set, as seen before, a resolution plan which specifies the exact amount of the Fund which is

⁹ Single Resolution Board, <https://srb.europa.eu/en>

going to be used (i.e. such amount is decided after the bail-in has been processed). At the beginning of the operation, the funds withdrawn are the ones belonging to the member state in which the entity resides; in case this is not enough, other member states' funds within the same SRF will be used. In the extreme scenario in which the money made available are not sufficient to recapitalise the bank, the residual missing funds will be collected from the national budget of the member state.

It is now relevant to point out what the true nature of the fund is: it must not be considered a rescue fund (i.e. providing for loss-absorption, which is the role of the European Stability Mechanism); instead, its purpose is to give the financial institution under resolution the means to purchase equity or debt instruments. In other words, it can be considered as a facilitator of the resolution process, with the aim of ensuring the correct and smooth progress of the resolution procedure, without having to resort to tax-payers' money or public debt issuance.¹⁰

The Single Resolution Fund is maybe the most controversial theme in the European scenario. The main issue regards the EUR 5 billion and whether such sum is too small for coping with the strong links between banks and public finances; this is also the reason why politicians and economists argue on how the European Stability Mechanism can be completed, in order to strengthen the Single Resolution Fund's intervention power.¹¹

2.7 Is there any alternative to the usage of the 4 resolution tools?

Is there any exceptional alternative which allows a bank to be recapitalised outside resolution? The answer is yes, and this "fifth" tool which will be shortly dealt with is another pivotal point of this paper.

There is one case, indeed, in which the presence of positive public interest (i.e. the financial institution is relevant and systemic in the member state's financial scenario

¹⁰ MCARDLE, P. G. A., 2015. Banking Union - Progress and Prospects, IIEA, <https://www.iiea.com/publication/banking-union-progress-and-prospects/> (p. 79)

¹¹ BUFACCHI, I., 2018. Unione bancaria, Fondo salva-Stati: guida pratica all'agenda economica del summit Ue. Il Sole 24 Ore, <http://www.ilsole24ore.com/art/notizie/2018-06-27/unione-bancaria-fondo-salva-stati-guida-pratica-all-agenda-economica-summit-210441.shtml?uuid=AEMg3VDF>

and national insolvency laws would not be a fair and proper solution) does not trigger resolution (i.e. the drafting of the resolution plan, the usage of the 4 resolution tools); when this happens, according to some conditions, the bank enters a whole different process, which is called "Precautionary Recapitalisation". The Precautionary Recapitalisation provides for the injection of public funds into a solvent bank (i.e. taxpayers' money and/or public debt issuance) at prices and on terms which do not confer any advantage, in order for it to have the proper means to face adverse economic scenarios and preserve financial stability; the "precautionary" word here addresses the fact that such injection of funds is temporary in nature, there is indeed the prospect that the shares will be sold in the not too distant future.

The bank, at this stage, is supposed to be:

- still fully solvent; but
- it might incur in serious financial trouble (i.e. bankruptcy) following a potential economic crisis in the member state in which it resides.

This measure, which is subordinate to final approval within the scope of European Union's state aids, does not involve any resolution plan as it represents an exception to them. As already said, such kind of recapitalisation is applicable only to banks which are still solvent (i.e. not about to fail nor failing) and here the European Central Bank, which is responsible for systemic financial institutions, has the duty to check and confirm their solvency. Further, it is worth noting that this procedure is limited only to the injection of funds which are necessary to face the bank's capital shortage, which has been verified during EU-wide adverse-scenarios stress tests. The European Central Bank has to precisely quantify such lack of capital within the entity during such stress tests (i.e. which are carried out by the European Banking Authority, EBA).

When the Precautionary Recapitalisation is deemed appropriate by the financial institution, the bank itself requires the member state to intervene. The European Central Bank, here, is informed by the country and has first to rule on the bank's solvency, which is, as seen before, a mandatory prerequisite; the ECB has further to quantify the lack of capital within the adverse-scenario's stress test. When these two steps are approved, the competent authorities can initiate the procedure for the

Precautionary Recapitalisation. The European Commission, to conclude, has the final say on all such state aid matters.¹²

3. The Monte dei Paschi di Siena Case

Now that the Single Resolution Mechanism, together with its 4 resolution tools and the Precautionary Recapitalisation's exception, have been thoroughly presented and discussed, the Monte dei Paschi di Siena case can be properly introduced and argued.

3.1 Introduction

The Monte dei Paschi di Siena Bank (i.e. MPS) is the world's most ancient financial institution, founded back in 1472 in Siena, Italy. In 1999 it has been listed in the Italian stock exchange (i.e. Borsa Italiana), when it received purchase requests 10 times higher the number of shares offered to the market. After the listing, the bank grew exponentially through many acquisitions, among which the ones of Banca Agricola Mantovana and Banca del Salento¹³. In 2007 MPS encountered the first difficulties, when it acquired Banca Antonveneta for EUR 9 billion and when the world-wide financial crisis began; the combination of these two got the financial institution into serious trouble. In 2011-2013, its ever-incurring significant losses forced the government into two (not even one) state recapitalisations (i.e. state aid, the second of which amounted to EUR 4.1 billion), enriched by state guarantees. During all those years, anyways, MPS has always been considered fully solvent and financially sound¹⁴. Back then, it was the fourth largest bank in Italy by capitalisation among the ones listed on the Italian Stock Exchange.

¹² Precautionary Recapitalisation, European Central Bank, https://www.bankingsupervision.europa.eu/about/ssmexplained/html/precautionary_recapitalisation.it.html

¹³ Banca Monte dei Paschi di Siena, www.mps.it

¹⁴ The precautionary recapitalisation of the Monte dei Paschi di Siena; Mesnard, Margus, Margerit; European Parliament

3.2 How did the bank end up in financial distress?

As stated above, the Monte dei Paschi di Siena bank was suffering from the financial crisis and from financially disappointing takeovers since 2008. In the following years, the management of the entity tried many attempts to make the business profitable again mainly by capital increases; none of them was sufficient enough to reverse the negative course of things, though. At the end of 2016, indeed, the top management of the bank declared that another public capital increase operation failed because of lack of demand; this event came together with another important occurrence of the same year: the bank, together with 51 other systemic banking groups, was scrutinised during the EBA's (i.e. European Banking Authority) EU-wide stress test in which, following an imaginary adverse scenario, the remaining capital within the entity would have been quantified. Despite the public recapitalisation, the Monte dei Paschi di Siena proved itself to be the worst performer among all banking groups and the only one with resulting negative equity (i.e. CET 1)¹⁵; it was clear then that the bank was not in good health. All these events influenced negatively on the entity's public image and stock market value, which was ever decreasing at the time.

At the end of 2016, the bank has been cornered by the European Central Bank: even though it was seen as being "financially sound", it was in an unchangeable loss-making situation and its capital had to be somehow increased in order to absorb such financial outflows. The capital raising attempt had just failed and the ECB was not willing to grant time to the institution anymore.

3.3 The Monte dei Paschi di Siena's precautionary recapitalisation

It is in this context that the bank, short of capital and without any new private investor willing to put some money in the bag, turns white flag-waving to the Italian government, asking for help.

¹⁵ The precautionary recapitalisation of the Monte dei Paschi di Siena; Mesnard, Margus, Margerit; European Parliament

Just before the Christmas day of 2016, Italy approves a new decree called “Decreto Salva Risparmio”, which provides for EUR 20 billion to be injected into financial institutions’ equity instruments, primarily into MPS in order to make it in compliance with the stress test-based new capital requirement, increased by EUR 8.8 billion¹⁶. This measure triggers the precautionary recapitalisation of Monte dei Paschi di Siena Bank and the following injection of funds by the Italian government. Despite such injection being within the precautionary recapitalisation procedure, it can nevertheless also be seen as a disguised, further public intervention (i.e. usage of public money) in the financing of the troubled bank, made possible by that “Decreto Salva Risparmio” which is substantially nothing but a EUR 20 billion bail-out package.¹⁷

Even though this new recapitalisation has been labelled differently, it is nonetheless one further case of usage of public money for a bank in financial distress which, in the case of MPS, can be stated to be chronic. One doubt that inevitably comes up here lies on the reason why the bank has not been made subject to resolution, through the usage of one or more of the resolution tools made available by the Bank Recovery and Resolution Directive (i.e. BRRD); the answer to this question, though, is trivial as one of the three requirements for resolution initiation is missing here: the bank was not bankrupting, nor was about to (i.e. it was considered “financially sound”). Therefore, the bridge bank, the asset separation, the sale of business and the bail-in were all non-suitable tools for the entity’s situation at that time.

Let’s now step away from the “precautionary recapitalisation” concept and focus on the Bank Recovery and Resolution Directive. As it has been argued before, such directive provides for the bail-in and the other resolution tools, but it also states that public intervention to a troubled bank is not excluded either, if certain requirements are met. Article 32, indeed, states that there are three cases of state aid which can be initiated to non-failing banks in order to avoid financial disturbances and preserve financial stability, and the third one is worth of attention:

¹⁶ MPS, sale a 8,8 miliardi la richiesta della BCE per l’aumento di capitale, Il sole 24 Ore, 26 Dicembre 2016

¹⁷ The precautionary recapitalisation of the Monte dei Paschi di Siena; Mesnard, Margus, Margerit; European Parliament

- The public intervention is an injection of own funds or capital instruments at prices and on terms that do not confer an advantage upon the institution, which are limited to capital shortage requirements following an EU-level stress test.

Given this and given also the previously set-out requirements, it can be stated that according to the BRRD the state intervention and the institution's conditions do not lay down the foundations for resolution initiation, which bounce back to the precautionary recapitalisation procedure.¹⁸

After a careful analysis of the resolution directive and the Monte dei Paschi di Siena case in particular, it can then be argued that the whole recapitalisation process has been carried out properly and that the precautionary recapitalisation has been a legit choice.

But has it been the best, too? How are the bank's finances nowadays?

III. CONCLUSIONS

The analysis has been divided into two different parts: the first, which thoroughly describes the Single Resolution Mechanism and how it has been conceived by the European Union and the second, in which such concepts have been applied and compared to the work done with the Monte dei Paschi di Siena Bank. As previously stated, the whole process is legit, and all the steps seem to have been properly followed by the competent authorities. The questions that have been raised in the previous section relate to the adequacy of the precautionary recapitalisation choice, and, consequently, to whether such recapitalisation has eventually improved the entity's financial position or not.

Let us begin with the current bank's conditions: surprisingly (or not?), MPS is still in dire straits, the chronic losses are still there and the 2019 financial year has just been closed with reported losses of EUR 1 billion; the previous years were not any better, with more than EUR 3 billion losses reported in 2016 and 2017, slightly offset by a

¹⁸ Bank Recovery and Resolution Directive (BRRD), European Commission, https://ec.europa.eu/info/law/bank-recovery-and-resolution-directive-2014-59-eu_en

paltry profit of some million euros in 2018.¹⁹ Perhaps, after the new equity injection, the bank is safer and readier to face potential economic downturns; on the other hand though, there is no uncertainty about two things: the Italian government has one again taken on more debt in order to make the recapitalisation possible, and the financial institution is still unsatisfactorily unprofitable.

Given these results, some propositions are now laid out. The resolution procedures are powerful tools which are able to guarantee a radical change of course for banks which are made subject to them; MPS has always been considered “financially sound”, which basically made their adoption impossible (i.e. the bank was fully solvent and the only problem was linked to a lack of capital under an adverse stress-test based scenario²⁰). But even though the bank is not bankrupting nor is about to, shouldn't the fact that it is not able whatsoever to close a year profitably be equally relevant? It should, mostly because the precautionary recapitalisation has only been the last of a series of public interventions which had the increase of public deficit as the most substantial effect. A proposition would therefore concern the solvency assessment: it would be useful to base this decision dynamically by looking at the bank's financial situation over various years, and at what has been previously done to improve it (if the bank has been publicly recapitalised twice before, maybe the third time is not necessarily going to be a charm and consequently some other way out might be more preferable). On the other hand, also the requirements for the adoption of the resolution tools might be slightly changed and made more loose, in order to make it possible for a troubled systemic bank which, on paper, does not comply with all the requirements to be made subject to resolution and have access to the Single Resolution Fund, instead of enlarging the debt burden on member states' finances with disappointing results.

To conclude, if resolution action had been taken for Banca Monte dei Paschi di Siena according to the BRRD, maybe now the bank would have been in better shape, with some activities being wound-up, some others sold to other competitors and the critical ones still in operation, in a fairly less indebted Italy.

¹⁹ Banca Monte dei Paschi di Siena, www.bloomberg.com

²⁰ La ricapitalizzazione precauzionale di MPS: domande e risposte, Banca d'Italia

