Why are we looking at the segmentation of the single market as a result of the financial crisis? Because it has become apparent that the opinion that systemic European Banks were too big to fail was simply mistaken.

Banks were "resolved" in several EU countries. Some were "velvet" resolutions and few became aware of them. Some were messy. These attracted a lot of press. So we'll take a quick look at some of them and focus on one aspect. The home country (or jurisdiction of registration) as a differentiating factor on how they were resolved.

Lets start with Greece. A total of 8 Banks were "resolved". Essentially, for 4 banks a split between good & bad assets was decided and the healthy assets and total deposits remained with the "good bank". A small deviation existed for some, where a split was not made to a bad bank, but instead a transfer order was made for part of the assets with the rest going into liquidation. 4 Banks were simply recapitalised through funds that were contributed by up to 100% by the HFSF, which became the main shareholder of the bank. And 2 Banks recapitalized themselves without assistance.

Greece was a general example of a bail out, although this doesn’t mean that the shareholders did not suffer very heavily on the loss of their shareholdings.

This was the result of a very significant cash contribution of up to €50billion, courtesy of the HFSF (through EFSF notes) and of the Greek government. Add to this, the significant Emergency Liquidity Assistance that the ECB and the Bank of Greece made available to the Greek Banks.

But where did the already bankrupt Greek government come up with these funds? It simply borrowed it as part of its financing plan from the EU/IMF mechanism. In my view, the Greek banks were too big to fail in relation to depositors loss, as this could have created a bank-run, too difficult to recover from.

Cyprus on the other hand, had a very different resolution experience. A major bank collapsed (CYPRUS POPULAR BANK), another one (BANK OF CYPRUS) was marginally failing, primarily due to Greek government PSI sovereign bonds haircut. So how was this matter dealt with? CPB was immediately shut down, all depositors lost any amount over €100.000 per person (joint account holders enjoyed a multiplier on number of co-beneficiaries). Bond holders lost everything.

The healthy "insured" deposits were transferred to the BCYP, along with all the Emergency Liquidity Assistance (about 9 Billion Euro) that CPB had borrowed from the European Central Bank. This also came with two benefits. Primarily, a moratorium on the collection of the ELA assistance that CPB had received, coupled with additional ELA assistance to keep BCYP liquid.

In relation to the BCYP, other than the assets & liabilities it received, it also imposed a compulsory depositor bail in for all deposits over €100.000 (plus multipliers for co-beneficiaries). This bail-in was in the form of a conversion of deposits into equity for the bank, in the form of preferential shares.

Why such a difference in the resolution process? Simply because Cyprus was unprepared, lacked access to funds to borrow and its "systemic" banks were not too big to fail, or at least one of them wasn't.

Cyprus was also the first experiment of an EU bank bail-in process that affected depositors. Actually, Cyprus was the example of 3 different bail-in processes. Why three?

Cyprus Popular Bank (Laiki Bank):
Depositors lost all amounts over €100.000 (plus multipliers).
Bond holders lost everything.
Laiki Bad Bank obtained

Bank of Cyprus:
Depositors got shares for 47,5% of their deposits.
Senior Bond holders got shares for 3% of the nominal value of the investment.
Convertible Bond holders got shares for 2% of the nominal value of the investment.
Subordinated Debt holders got shares for 1% of the nominal value of the investment.
Previous Shareholders got 1 new share for every 100 old shares.

Hellenic Bank:
Depositors did not lose deposits.
Bond holders did suffer a conversion of bonds by extension of the maturity date and the bank essentially recapitalized through a private placement with the dilution of previous shareholders.

All Cyprus banks sold their Greek operations as part of the conditions for the EU/IMF financial assistance, to reduce systemic risk & risk of contagion to Greece and quite possibly a European bank run.

So were Cypriot banks failing more than Greek banks? From a financial point of view, simply No. So what was the differentiating factor?

The financial power (through access to borrowing) of the country of registered seat of the failing bank.

Add to this the different examples of resolution seen in the Netherlands, the United Kingdom and other countries and a picture becomes apparent. The outcome is different, on substantially the same facts. And it wasn’t a difference of legislative framework per se.

Greece still to this day does not have a bail-in framework, but Cyprus did not have one either. It was adopted on an emergency basis as practically imposed as a condition of government financing from the EU / IMF. Cyprus was given initially a weekend and subsequently a week (a very controversial and heated week) to legislate this framework.

Add to the above some very controversial capital ("bank capital") control rules which were imposed on depositors in Cyprus to control the flee of deposits. Greek banks,

which faced significantly higher capital withdrawal flows, faced a very different form of "capital control rules".

Depositors faced a “threat” of a tax inspection on people who made outwards transfers and the general delays from the banks in execution of these transfers, based on very creative requests for tons of documents. In the end, these didn’t deter too many from transferring their deposits to safe havens.

For Cyprus, very commonly it was other banks in Cyprus, primarily those that were subsidiaries of UK & Russian banks. And this led to a unique capital restriction, which is still active in Cyprus and which is the restriction of opening of a bank account in more than one Cyprus banks, unless you already hold this account. And this to prevent outflows from a troubled bank to another domestic bank!

A common element for both countries was that the depositors’ protection funds did not contribute any funds to the support secured deposits. The reason was simple. They were not sufficiently capitalized. Actually, they were capitalized with amounts of under 2% of what they needed…

I believe that what I have described are clear examples of segmentation. One set of rules, many different applications, based on non-legal distinctions. Moreover, add the commercial discrepancies primarily within the Eurozone, ie the difference in access to capital for a Netherlands Bank rather than a Greek bank, and a picture of segmentation becomes more evident.

The general Eurogroup approach to banking resolution at the Cyprus meeting was that depositors should be careful when they decide with which bank they hold their deposits. Based on my comparison another factor comes in, which is that the depositor should also be prudent in choosing which country (or how wealthy) the country that his bank is based is.

The common resolution framework that is being discussed and expected to take the form of a European Resolution would harmonise the legal framework, but the broad choice of resolution methods available to the national governments will remain.

Furthermore, how this will be applied is an interesting expectation, as ECB will be part of the Resolution Authority and the deposit guarantee funds will come from a common European Deposit Security Fund.

Will that remove the country risks discussed, well this remains to be seen, when such framework becomes active law.