

EBA/RTS/2014/15

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EBA FINAL Draft Regulatory Technical Standards

on the content of resolution plans and the assessment of
resolvability

Contents

1. Executive Summary	3
2. Background and rationale	5
2.1 Contents of resolution plans	6
2.2 Assessment of resolvability	8
3. Draft Regulatory Technical Standards on the contents of resolution plans and the assessment of resolvability	11
4. Accompanying documents	24
4.1 Draft Cost- Benefit Analysis / Impact Assessment	24
4.2 Views of the Banking Stakeholder Group (BSG)	38
4.3 Feedback on the public consultation	39

1. Executive Summary

Directive 2014/59/EU (the Bank Recovery and Resolution Directive, or BRRD) mandates the EBA (in Articles 10 and 12) to develop draft Regulatory Technical Standards on the content of resolution plans for institutions and for groups, and (in Article 15) on the matters and criteria which resolution authorities should apply in the assessment of resolvability. The draft RTS contained in this consultation paper has been developed to meet these mandates. To assist with the consistent and proportionate application of the assessment of resolvability, the draft RTS also proposes harmonisation of the stages of the process for assessment of resolvability.

In approaching these products the EBA has considered the experience of resolution authorities to date in developing resolution plans and assessing the resolvability of institutions on the basis of both national frameworks and as part of FSB-led exercises. The need for proportionality is respected in two distinct ways: first, through the inherent nature of the resolution planning process set out in the draft RTS, less complex institutions should have less complex resolution plans, and may be liquidated rather than resolved; second, the draft RTS allows for national authorities to apply simplified resolution planning obligations when the conditions of Article 4 of the BRRD are met.

For the contents of resolution plans, the approach adopted is to identify eight categories of information which the resolution plan should contain. The RTS proposes a general requirement for any information which is necessary to enable the delivery of the preferred resolution strategy to be included in each category, as well as specific requirements in each category. These categories are:

- a summary
- a description of the resolution strategy
- arrangements for information
- arrangements for operational continuity
- financing
- communication
- conclusions of the assessment of resolvability
- responses from the institution or group

For the assessment of resolvability, the draft RTS propose a staged approach, in which resolution authorities should first assess whether liquidation under normal insolvency procedures is feasible and credible. If not, they should identify a preferred resolution strategy, and then proceed to assess the feasibility and credibility of that strategy. This preferred resolution strategy may be designed as a single-point-of-entry or a multiple-point-of-entry strategy, and the draft RTS identifies the criteria relevant to the choice between these options.

The draft RTS on assessment of resolvability proposes a categorisation of matters and criteria for assessment relevant to each of these stages:

- Criteria for assessing the feasibility and credibility of liquidation
- Criteria for identifying an appropriate resolution strategy
- Criteria for assessing the feasibility of a resolution strategy, broken down into criteria related to:
 - a) Structure and operations
 - b) Financial resources
 - c) Information
 - d) Cross-border issues
 - e) Legal issues
- Criteria for assessing the credibility of a resolution strategy

The draft RTS require resolution authorities to consider whether and how some liabilities are less likely to be subject to bail-in or otherwise contribute to loss absorption and recapitalisation. This is an important input into setting the minimum requirement for own funds and eligible liabilities (MREL), as described in the EBA's consultation paper on the criteria for setting MREL (<https://www.eba.europa.eu/-/eba-consults-on-criteria-for-determining-the-minimum-requirement-for-own-funds-and-eligible-liabilities-mrel->).

2. Background and rationale

Bank resolution can be a complex process. Resolution authorities are therefore more likely to be successful in achieving their objectives during a resolution if they have carried out a robust resolution planning process in advance. The planning process should include a rigorous assessment of the resolution plans which are developed and whether, given those plans, the bank is resolvable in a manner which meets the resolution objectives. Furthermore, where more than one resolution authority would play a role in a resolution, resolution planning also enables them to agree in advance mechanisms for cooperation and coordination that would be difficult to establish under the pressure of time in a crisis.

The Financial Stability Board (FSB) has established standards for resolution planning for Globally Systemically Important Banks, and a process for resolvability assessment of these banks is underway. These complement more broadly applicable national standards which have been introduced by reforms to national bank resolution laws. Harmonised requirements for resolution authorities to draw up or update resolution plans and assess the resolvability of institutions and groups on at least an annual basis within the European Union have been introduced by the Bank Recovery and Resolution Directive (BRRD). These requirements are an essential precondition for the effective repair of the single market in financial services, and require further specification in order to serve as a useful tool for resolution authorities.

The EBA is mandated in Articles 10 and 12 of the BRRD to produce regulatory technical standards specifying the content of resolution plans, and in Article 15 of the BRRD to produce regulatory technical standards which specify matters and criteria for the assessment of resolvability of institutions or groups. In approaching these mandates the EBA has considered the experience of resolution authorities to date in assessing the resolvability of institutions on the basis of both national frameworks and as part of FSB-led exercises. That experience indicates that the resolvability of an institution can only coherently be assessed on the basis of a clearly identified resolution strategy. A staged process in which the resolution strategy is identified first and then its feasibility and credibility is assessed in greater detail on the basis of supplementary information requests also helps to ensure the proportionality of demands on the resources of both the institution or group being assessed and the resolution authority. For these reasons the EBA is also proposing that the Regulatory Technical Standards provide for harmonisation of the process for the assessment of resolvability.

Experience also suggests that discussions between more than one resolution authority for the purpose of identifying the resolution strategy to be applied to a group are more productive if carried out on the basis of common terminology and criteria for the characterisation of broad types of resolution strategy. The FSB has issued guidance on the identification of resolution

strategies as either single-point-of entry or multiple-point-of-entry for globally systemically important banks, which have been influential in promoting a more concrete debate on the appropriate resolution strategy for particular institutions. The draft RTS proposes that for groups resolution authorities should where possible follow this classification.

2.1 Contents of resolution plans

Article 10 (paragraphs 4 & 7) of the BRRD establishes requirements for the contents of resolution plans of institutions, and Article 12 (paragraph 3) expands these requirements to groups. These requirements are compatible with the breakdown of the contents of resolution strategies and operational resolution plans suggested by the Financial Stability Board¹. The approach adopted by these draft technical standards is therefore to provide a categorisation of the content of a resolution plan which is consistent with both the BRRD and the FSB approach.

Within each category, a general requirement is proposed for resolution authorities to include any information which is necessary to enable the delivery of their chosen resolution strategy. Specific content which should be included in each category in all cases is listed, but this is not intended to be an exhaustive list or to prevent resolution authorities from adding additional information which is relevant to particular institutions or groups. The principle of proportionality is respected in two distinct ways: first, the amount of information required from less complex institutions or groups in each category will inherently be lower; and second, member states may opt to apply simplified obligations under Article 4 of the BRRD to certain categories of institutions.

The categories of information required are:

- a) A summary of the resolution plan including a description of the institution or group. The key elements and judgements in the plan should be capable of being expressed in a concise way to facilitate discussion about these issues.
- b) A description of the resolution strategy considered in the plan, including arrangements for decision-making and information sharing necessary to the execution of the strategy. Resolution authorities should clearly identify a single preferred resolution strategy, but may also need to include here variant strategies to be applied in circumstances in which implementation of the preferred strategy is not feasible.
- c) Arrangements for ensuring information required to execute the strategy and undertake preparatory steps such as valuation is available.

¹See FSB document: “Recovery and Resolution planning: making the key attributes operational” http://www.financialstabilityboard.org/publications/r_121102.pdf

- d) Arrangements to ensure operational continuity during resolution.
- e) Financing arrangements for resolution. This should consider the needs for financing during resolution and identify the sources of finance which are available to meet those needs, including private sources of finance, access to central bank facilities (respecting the requirement of the BRRD that resolution plans should not assume any access to central bank facilities on non-standard terms), and use of resolution financing arrangements
- f) Plans for communication with critical stakeholder groups
- g) Conclusions of the assessment of resolvability. This should include a quantified assessment of any changes needed to the minimum requirement for eligible liabilities to ensure resolvability.
- h) Responses from the institution or group itself.

The table below shows how these categories map to the requirements of the directive and the categories of information identified by the FSB.

RTS	BRRD provisions	FSB categories (RS: part of the Resolution Strategy; ORP: part of the operational resolution plan)
a) Summary	Art 10.7 (a), (b)	RS
b) Resolution strategy	Art 10.7 (c), (d), (j); Art 12.3 (a), (b), (c)	RS; ORP processes, powers, critical functions, conditions for activation, scope
c) Information	Art 10.7 (g), (h)	ORP Information requirements
d) Continuity	Art 10.7 (k), (l), (q);	ORP payments, moratoria, maintenance of contracts
e) Financing	Art 10.4, 10.7 (i); Art 12.3 (f)	ORP sources of funding
f) Communication	Art 10.7 (m), (n);	ORP Regulatory approvals, advisors, communications
g) Resolvability	Art 10.7 (e), (f), (o), (p); Art 12.3 (d), (e)	

h) Response	Art 10.7 (r)	
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2.2 Assessment of resolvability

The resolvability assessment process required by the BRRD serves three purposes. First, it provides assurance of the quality of resolution plans and strategies, and ensures that resolution authorities assess whether their strategies are feasible and credible. Second, the requirement for assessments at least annually informs the development and updating of the resolution strategy. And third, the assessment identifies impediments to the implementation of resolution strategies which should be addressed through the procedure provided in Article 14 of the BRRD.

Under the BRRD resolution actions should only be taken if resolution is necessary in the public interest. If it is not, resolution tools are not available and the institution should be considered resolvable through liquidation in accordance with normal insolvency procedures. The draft RTS therefore proposes that **resolution authorities should begin the resolvability assessment by evaluating whether the liquidation of the institution or group is feasible and credible in a manner which is consistent with the public interest.** This evaluation may be conducted on the basis of general criteria to ensure proportionality in the case of institutions or groups for which liquidation is clearly not feasible or credible.

Article 4 of the draft RTS proposes criteria on the basis of which this assessment of feasibility and credibility should be conducted. As regards feasibility, It proposes that the main pillar of the assessment should be to assess whether it would be feasible for deposit guarantee schemes to fulfill their obligations under Directive 2014/49/EU to ensure the timely repayment of covered deposits. This will require resolution authorities to form a view of whether the systems and operations of the institution or group are capable of providing any necessary support to the operations of the DGS.

As regards credibility, the draft RTS proposes that the main pillar of the assessment should be an assessment of the likely systemic impact of a counterfactual liquidation. This assessment should distinguish the impacts on financial market functioning, on financial market infrastructures, on

other financial institutions, and on the real economy (in particular through the availability of critical financial services).

If liquidation is not feasible or credible, and resolution action would be in the public interest, the draft RTS proposes that resolution authorities should proceed to identify a preferred resolution strategy. The preferred strategy should be appropriate for the structure and business model of the institution or group, and Article 5 of the RTS proposes criteria on the basis of which the appropriateness of a proposed resolution strategy may be assessed. It also proposes, for groups, how those criteria should apply to identifying whether a single point of entry or multiple point of entry resolution strategy is more likely to be appropriate.

Resolution authorities may also identify variants of the preferred strategy that would be applied in circumstances in which it is not feasible or credible to implement the strategy. These variant strategies must seek to achieve the same resolution objectives and should be assessed against the same criteria.

As a second stage, the draft RTS proposes that resolution authorities should proceed to a detailed assessment to identify impediments the feasibility or credibility of the resolution of the institution or group. The BRRD requires that the assessment of resolvability should take into account the matters specified in Annex C to the Directive. The draft RTS provides a categorization of these matters as pertaining either to the assessment of feasibility or the assessment of credibility. Within the assessment of feasibility they are further broken down into matters related to impediments to one of:

- a) structure and operations;
- b) financial resources ;
- c) information;
- d) cross-border issues;
- e) legal issues

The draft RTS requires resolution authorities to conduct a rounded assessment of whether impediments to resolution exist within each of these categories, not limited to the matters specified in Annex C. Within each category particular additional issues are identified which are likely to be applicable to most institutions or groups.



The RTS also requires resolution authorities to assess whether impediments exist to either the short-term stabilisation of the institution or group in the period immediately following resolution, or to the longer term restructuring of the business which is likely to be required to address the causes of failure. However, the EBA recognizes that the range of possible longer term restructuring actions which may be required in particular cases is extremely broad and the RTS therefore provides less detail in this area. In case of application of the bail-in tool, where a business reorganization plan is explicitly required by the BRRD, further detail will be provided by the Guidelines which the EBA is required to develop under Article 52 of the BRRD.

3. Draft Regulatory Technical Standards on the contents of resolution plans and the assessment of resolvability

COMMISSION DELEGATED REGULATION (EU) No .../..

of XXX

**supplementing Directive 2014/59/EU of the European Parliament and of the Council
with regard to regulatory technical standards for the content of resolution plans and
assessment of resolvability**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2014/59/EU of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directives 77/91/EEC and 82/891/EC, Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC and 2011/35/EC and Regulation (EU) No 1093/2010², and in particular Articles [10(9), 12(6), and 15(4)] thereof,

Whereas:

- (1) Requirements for the content of resolution plans should take account of ongoing work to coordinate these developments at a global level through the Financial Stability Board.
- (2) Standards for the content of resolution plans and the assessment of resolvability should be sufficiently flexible to take account of the circumstances of the institution or group being considered, to ensure that plans are targeted and useful for the implementation of resolution strategies.

² OJ L [...], [...], p. [...].

- (3) Resolution authorities should assess whether liquidation under normal insolvency procedures can credibly and feasibly achieve the resolution objectives. To do this they may need to draw on the expertise in this area of deposit guarantee schemes.
- (4) Assessment of resolvability is an iterative process and is only possible on the basis of an identified preferred resolution strategy. Resolution authorities may conclude at the end of the process that an amended or wholly different strategy is more appropriate.
- (5) Variants of the preferred strategy should also be considered to take account of circumstances which prevent implementation of the preferred resolution strategy. For example, a single point of entry strategy using the bail-in tool may no longer be feasible if losses exceed the eligible liabilities issued by the parent entity.
- (6) In respect of some institutions or groups simplified obligations pursuant to Article 4 of Directive 2014/59/EU may apply, or it may be clear that winding up under normal insolvency proceedings either would or would not be feasible and credible.
- (7) Standards for group resolution plans and assessment of resolvability should permit a resolution strategy based on either of the stylised approaches outlined by the Financial Stability Board and referred to in recital (80) of Directive 2014/59/EU. Namely, resolution strategies may (a) involve a single resolution authority applying resolution tools at the holding or parent company level of a group (single point of entry), (b) involve more than one resolution authority applying resolution tools in respect of more than one regional or functional sub-group or entity in a crossborder group by more than one resolution authority (multiple point of entry), or (c) may combine aspects of both.
- (8) In either case resolution planning and assessment should take account of any supporting action required from resolution authorities other than those taking resolution action, for instance through provision of information, continued provision of critical shared services, or decisions to refrain from taking resolution action, taking into account the right of other resolution authorities to act on their own initiative if necessary to achieve domestic financial stability in the absence of effective action by lead resolution authorities.
- (9) Section C of the Annex to Directive 2014/59/EU specifies a number of matters which must be considered in assessing the resolvability of an institution or group, but is not exhaustive and requires further specification.
- (10) The provisions in this Regulation are closely linked, since they deal with the development of resolution plans and the assessment of resolvability. In accordance with Articles 10 and 15 of Directive 2014/59/EU resolution plans are required to identify material impediments to resolvability, the assessment of resolvability is required to take place and be updated at the same time as drawing up or updating the resolution plan, and the conclusions of the assessment should form part of the plan. To ensure coherence between those provisions, which should enter into force at the same time, it is desirable to include certain regulatory technical standards required by that Directive in a single Regulation.
- (11) Pursuant to Article 32 of Directive 2014/59/EU resolution action may only be taken when winding up of an institution or group under normal insolvency proceedings would not be in the public interest, and therefore the assessment of resolvability should consider such winding up as an alternative to resolution action.
- (12) This Regulation is based on the draft regulatory technical standards submitted by the European Supervisory Authority (European Banking Authority) (EBA) to the Commission.
- (13) The EBA has consulted the European Systemic Risk Board and has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits, and requested the opinion of the Banking

Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council³,

HAS ADOPTED THIS REGULATION:

Title 1: Subject matter and definitions

Article 1

Subject matter

This regulation specifies the matters and criteria to be examined for the assessment of the resolvability of institutions or groups provided for in Article 15, paragraph 4 and Article 16, paragraph 2 of the Directive 2014/59/EU and the contents of resolution plans required for institutions that are not part of a group subject to consolidated supervision pursuant to Articles 111 and 112 of Directive 2013/36/EU⁴ and groups under Articles 10 and 13 of Directive 2014/59/EU [BRRD]. Simplified obligations may be applied for certain institutions if the conditions of Article 4 of Directive 2014/59/EU are met.

Article 2

Definitions

For the purpose of this Regulation, the following definitions apply:

- a) ‘resolution strategy’ means a set of resolution actions provided for in a resolution plan or group resolution plan;
- b) ‘preferred resolution strategy’ a resolution strategy capable of best achieving the resolution objectives set out in Article 31 of Directive 2014/59/EU given the structure and the business model of the institution or group, and the resolution regimes applicable to legal entities in a group.
- c) ‘qualifying eligible liabilities’ means eligible liabilities which satisfy the conditions set forth in Article 45(4) of Directive 2014/59/EU in order to be included in the amount of own funds and eligible liabilities referred to in Article 45(1).

³ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

⁴ Directive 2013/36/EU of the European Parliament and Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.06.2013, p338).

- d) 'single point of entry (SPE)' means a resolution strategy involving the application of resolution powers by a single resolution authority at the level of a single parent undertaking or of a single institution subject to consolidated supervision.
- e) 'multiple point of entry (MPE)' means a resolution strategy involving the application of resolution powers by two or more resolution authorities to regional or functional sub-groups or entities of a group.

Title 2: Content of resolution plans

Article 3

Categories of information to be included in resolution plans

A resolution plan shall contain at least the elements laid down in letters (a) to (h) of this Article, including all information required under Articles 10 and 12 of Directive 2014/59/EU and any additional information necessary to enable the delivery of the resolution strategy:

- a) A summary of the plan, including a description of the institution or group and a summary of items specified in letters (b) to (h) under this Article;
- b) A description of the resolution strategy considered in the plan, including:
 - i. Identification of the different resolution actions foreseen under the plan;
 - ii. Identification of the legal entity or entities to which resolution actions would be applied;
 - iii. Identification of any critical functions or core business lines which will be maintained and any which are expected to be separated from other functions;
 - iv. An estimation of the timeframe for executing each material aspect of the plan, as required pursuant to Article 10 (7) letter (d) of Directive 2014/59/EU;
 - v. A detailed description of any variants of the preferred resolution strategy considered to address circumstances in which the preferred strategy cannot be implemented;
 - vi. A description of the decision-making process for implementing the resolution strategy, including the timeframe required for decisions;
 - vii. For group resolution plans, arrangements for cooperation and coordination between resolution and other relevant authorities of Member States in which group entities are located or have significant branches and relevant authorities of third countries in which group entities are located, in lines with the written arrangements and procedure as set out in any Regulatory Technical Standards on the operational functioning of resolution colleges pursuant to Article 88(7) of Directive 2014/59/EU;
- c) A description of the information, and the arrangements for the provision of this information, necessary in order to effectively implement the resolution strategy, including at least:
 - i. A description of the information, and processes for ensuring availability in an appropriate timescale of that information required for the purposes of valuation, in particular pursuant to Articles 36 and 49 of Directive 2014/59/EU, and

- marketability, in particular pursuant to the marketing requirements for the sale of business and bridge bank tools.
- ii. A mapping of critical functions and core business lines to legal entities which identifies in particular a) the critical functions and core business lines carried out by entities subject to resolution actions and b) the critical functions or core business lines spread across legal entities which would be separated by implementation of the resolution strategy;
 - iii. A description of the arrangements for the sharing of information between resolution authorities and other relevant authorities, including where relevant authorities in other Member States or in third countries, in accordance with Article 90 of Directive 2014/59/EU;
 - iv. A detailed description of arrangements for ensuring that information pursuant to Article 11 of Directive 2014/59/EU is up to date and available to resolution authorities when required;
- d) A description of arrangements to ensure operational continuity of access to critical functions during resolution, including at least:
- i. A description of critical shared systems and operations which need to be continued to maintain continuity of critical functions and arrangements for ensuring the contractual and operational robustness of their provision in resolution;
 - ii. A description of internal and external interdependencies which are critical to the maintenance of operational continuity;
 - iii. A description of arrangements for ensuring any access to payment systems or other financial infrastructures necessary to maintain critical functions, including an assessment of the portability of client positions;
- e) A description of the financing requirements and financing sources necessary for the implementation of the resolution strategy foreseen in the plan, including at least:
- i. A description of financing, funding and liquidity requirements implied by the resolution strategy;
 - ii. A description of potential sources of resolution funding, including the terms of financing, preconditions for their use, the timing of their availability, the entities to which they may provide financing, and any collateral requirements;
 - iii. Where relevant, a description and analysis of how and when an institution or group may apply, in the conditions addressed by the resolution plan, for the use of central bank facilities (other than emergency liquidity assistance or other assistance on non-standard terms) in resolution, including identification of available collateral;
 - iv. For groups, a description of any principles agreed for sharing responsibility for financing between sources of funding in different jurisdictions, including between sources of funding in different member states pursuant to Article 12(3) (f) of Directive 2014/59/EU;
- f) Plans for communication with critical stakeholder groups, including at least with:
- i. the management, owners, and staff of the institution or group including procedures for consultation with staff and, where applicable, dialogue with social partners in the resolution process, and an assessment of the impact of the plan on employees;
 - ii. customers, media and the general public;
 - iii. depositors, shareholders, bondholders, counterparties, financial market infrastructures, and other affected market participants;
 - iv. any administrative or judicial bodies from whom approval or authorisation critical to implementing the resolution strategy is required;
 - a. any advisors required to implement the resolution strategy;

- g) The conclusions of the assessment of resolvability, including at least:
 - i. Whether or not the institution or group is currently resolvable;
 - ii. A summary of the conclusions of the liquidation assessment required under Article 4(1) letter (a)
 - iii. A detailed description of any impediments to resolvability identified, and of any measures proposed by the institution or group or required by the resolution authority to address or remove those impediments;
 - iv. A quantified assessment of any change to minimum requirements for eligible liabilities, or the appropriate location of eligible liabilities, that is required to remove or address impediments to resolvability, taking into account the criteria specified in Article 45 (6) of Directive 2014/59/EU and further specified in the EBA Regulatory Technical Standards mandated in Article 45 (2) of Directive 2014/59/EU;
- h) Any opinion expressed by the institution or group in relation to the resolution plan.

Title 3: Assessment of resolvability

Article 4

Stages of assessment

1. Resolution authorities shall assess resolvability based on the following consecutive stages:
 - a) Assessment of the feasibility and credibility of the liquidation of the institution or group under normal insolvency proceedings in accordance with Article 5;
 - b) Selection of a preferred resolution strategy for assessment in accordance with Article 6;
 - c) Assessment of the feasibility of the selected resolution strategy in accordance with Articles 7 to 12;
 - d) Assessment of the credibility of the selected resolution strategy in accordance with Article 13;
2. Where the resolution authority considers that it is clear that institutions or groups pose similar risks to the financial system or that the circumstances in which their liquidation is unlikely to be feasible are similar, resolution authorities may conduct the assessment of the feasibility and credibility of the liquidation of those institutions or groups in a similar or identical manner

The types of institution referred to in the first subparagraph may in particular be determined in accordance with the criteria referred to in Article 98(1)(j) of Directive 2013/36/EU.
3. Where a resolution authority concludes that it may not be feasible or credible to wind up the institution or group entities under normal insolvency proceedings, or that resolution action may otherwise be necessary in the public interest, it shall identify a preferred resolution strategy which is appropriate for the institution or group on the basis of information provided

by the institution or group pursuant to Article 11 of Directive 2014/59/EU and the criteria set out in this Regulation. To the extent necessary, they shall also identify variant strategies to address circumstances in which the strategy would not be feasible or credible.

4. The assessments of the feasibility and credibility of the preferred resolution strategy referred to in paragraph 3 shall include assessment of any variant strategies proposed as part of that strategy. Resolution authorities shall request from the institution or group in accordance with Article 11 of Directive 2014/59/EU such additional information as is necessary to carry out those assessments of the preferred and variant strategies.
5. Where appropriate, a resolution authority shall revise the preferred resolution strategy or consider alternative strategies on the basis of a completed assessment of feasibility and of the credibility of a preferred resolution strategy referred to in paragraph 4.
6. Where a resolution authority revises the preferred resolution strategy it shall assess the feasibility and the credibility of that revised preferred resolution strategy in accordance with Articles 7 and 8 respectively.

Article 5

Feasibility and credibility of liquidation under normal insolvency proceedings

1. Resolution authorities shall assess the feasibility and credibility of liquidation of the institution or group under normal insolvency proceedings.
2. When assessing the credibility of liquidation, resolution authorities shall consider the likely impact of the liquidation of the institution or group on the financial systems of any Member State or of the Union, with a view to ensuring the continuity of access to critical functions carried out by the institution or group and achieving the resolution objectives of Article 31 of Directive 2014/59/EU. For this purpose, resolution authorities shall take into account the functions performed by the institution or group and assess whether liquidation would be likely to have a material adverse impact on any of the following:
 - a) Financial market functioning and in particular the impact on market confidence;
 - b) Financial market infrastructures and in particular:
 - whether the sudden cessation of activities would constrain the normal functioning of financial market infrastructures in a manner which negatively impacts the financial system as a whole;
 - whether and to what extent financial market infrastructures could serve as contagion channels in the liquidation process.
 - c) Other financial institutions and in particular:
 - whether liquidation would raise the funding costs of or reduce the availability of funding to other financial institutions in a manner which presents a risk to financial stability.
 - the risk of direct and indirect contagion and macroeconomic feedback effects
 - d) The real economy and in particular on the availability of critical financial services.

3. If the resolution authority concludes that liquidation is credible, it shall assess the feasibility of liquidation. For this purpose resolution authorities shall consider whether the institution's or group's systems are able to provide the information required by the relevant deposit guarantee schemes for the purposes of providing payment to covered deposits in the amounts and timeframes specified in Directive 2014/49/EU⁵, or where relevant in accordance with equivalent third country deposit guarantee schemes, including on covered deposit balances. Resolution authorities shall also assess whether the institution or entity has the capability required to support the deposit guarantee schemes' operations, in particular by distinguishing between covered and non-covered balances on deposit accounts.

Article 6

Identification of a resolution strategy

1. Resolution authorities shall assess whether a candidate resolution strategy is appropriate to achieve the resolution objectives given the structure and business model of the institution or group, and the resolution regimes applicable to legal entities in a group. A resolution action may be taken in the public interest if it is necessary for the achievement of and is proportionate to one or more of the resolution objectives and winding up of the institution under normal insolvency proceedings would not meet those resolution objectives to the same extent.
2. In particular, for groups resolution authorities or authorities shall assess whether it would be more appropriate to apply a single point of entry or a multiple point of entry strategy.
3. For these purposes resolution authorities shall consider at least the following matters:
 - a) What resolution tools would be used under the preferred resolution strategy and whether those resolution tools are available for legal entities to which the resolution strategy proposes to apply them
 - b) The amount, risk of not contributing to loss absorption or recapitalisation, and issuing legal entities of qualifying eligible liabilities under the proposed resolution strategy, taking into account that:
 - i. Single point of entry is more likely to be appropriate if sufficient externally issued eligible liabilities or liabilities expected to contribute to loss absorption and recapitalisation under the proposed resolution strategy are issued by the top parent or group holding company;
 - ii. Multiple point of entry is more likely to be appropriate if the group's eligible liabilities or liabilities expected to contribute to loss absorption and recapitalisation under the proposed resolution strategy are issued by more than

⁵ O.J. L 173 of 12.6.2014, 149.

- one entity or regional or functional sub-group in the group which would be resolved.
- c) The contractual or other arrangements in place for losses to be transferred between legal entities in a group.
 - d) The operational structure and business model of the institution or group, and in particular whether it is highly integrated or has a decentralised structure with a high degree of separation between different parts of the institution or group, taking into account that:
 - i. Single point of entry is more likely to be appropriate if a group operates in a highly integrated manner, including by having centralised liquidity management, risk management, treasury functions, or IT and other critical shared services.
 - ii. Multiple point of entry is more likely to be appropriate if a group's operations are divided into two or more clearly identifiable subgroups, each of which is to a significant extent independent (financially, legally or operationally) from other parts of the group, and any critical operational dependencies on other parts of the group are based on robust arrangements that ensure their continued operation in the event of resolution.
 - e) The enforceability of resolution tools which would be applied, in particular in third countries.
 - f) Whether the resolution strategy requires supporting action by other authorities, in particular in third countries, or requires such authorities to refrain from independent resolution actions; and whether any such actions are feasible and credible for those authorities.
4. Resolution authorities shall also assess whether variants of the resolution strategy are necessary to address scenarios or circumstances where the resolution strategy cannot be feasibly and credibly implemented. Resolution authorities shall consider the extent to which any variant strategy is likely to achieve the resolution objectives and in particular ensure the continuity of critical functions. Measures to remove impediments to variants of the resolution strategy shall only be implemented if they do not impair the feasible and credible implementation of the preferred resolution strategy.

Article 7

Assessment of feasibility of a resolution strategy

1. The resolution authority shall assess whether it is feasible to apply the selected resolution strategy effectively in an appropriate timeframe and shall identify potential impediments to the implementation of the selected resolution strategy.
2. The resolution authority shall consider impediments to the short-term stabilisation of the institution or group. The resolution authority shall also consider any foreseeable impediments to a business reorganization which is required pursuant to Article 52 of Directive 2014/59/EU or otherwise likely to be required if the resolution strategy envisages all or part of the institution or group being restored to long-term viability.

3. Impediments shall be identified in at least the following categories:
 - a) structure and operations;
 - b) financial resources;
 - c) information;
 - d) cross-border issues;
 - e) legal issues

Article 8

Assessment of feasibility: structure and operations

1. Resolution authorities shall consider at least the following issues in assessing whether there are potential impediments to resolution related to the structure and operations of the institution or group:
 - a) Matters addressed in clauses 1 to 7, 16, 18 and 19 of Section C of the Annex to Directive 2014/59/EU;
 - b) Dependencies of material entities and core business lines on infrastructure, IT, treasury or finance functions, employees or other critical shared services;
 - c) Whether governance, control, and risk management arrangements are consistent with any planned changes to the structure of the institution or group;
 - d) Whether the legal and franchise structure of the institution or group is consistent with any planned changes to the business structure of the institution or group;
 - e) Whether appropriate resolution tools are available with respect to each legal entity as required to deliver the resolution strategy;

Article 9

Assessment of feasibility: financial resources

2. Resolution authorities shall consider at least the following issues in assessing whether there are potential impediments to resolution related to financial resources:
 - a) Matters addressed in clauses 13, 14, 15 and 17 of Section C of the Annex to Directive 2014/59/EU
 - b) Resolution authorities need to identify and quantify the amount of any liabilities which are likely under the preferred resolution strategy not to contributing to loss absorption or recapitalisation, considering at a minimum the following factors
 - i. maturity;
 - ii. subordination ranking;
 - iii. the types of holders of the instrument, or the instrument's transferability
 - iv. legal impediments to loss absorbency such as lack of recognition of resolution tools under foreign law or existence of set-off rights;

- v. other factors creating risk that the liabilities would be exempted from absorbing losses in resolution.
- c) The amount and issuing legal entities of qualifying eligible liabilities or other liabilities which would absorb losses
- d) The size of funding needs in the run-up to and during resolution, the availability of sources of funding, and impediments to the transfer of funds as required within the institution or group.
- e) Whether appropriate arrangements are specified for losses to be transferred to legal entities to which resolution tools would be applied from other group companies, including where relevant an assessment of the amount and loss-absorbency of intragroup funding.

Article 10

Assessment of feasibility: information

- 3. Resolution authorities shall consider at least the following issues in assessing whether there are potential impediments to resolution related to information:
 - a) Matters addressed in clauses 8 to 12 of Section C of the Annex to Directive 2014/59/EU
 - b) The capability of the institution or group to provide information on the amount and location within the group assets which would be expected to qualify as collateral for central bank facilities;
 - c) The capability of the institution or group to provide information to carry out a valuation to determine the amount of write-down or recapitalisation required.

Article 11

Assessment of feasibility: cross-border issues

- 4. Resolution authorities shall consider at least the following issues in assessing whether there are potential impediments to resolution related to cross-border issues:
 - a) Matters addressed in clauses 20 of Section C of the Annex to Directive 2014/59/EU
 - b) Existence of adequate processes for coordination and communication and assurances on actions to be taken between home and host authorities, including in third countries, to enable delivery of the resolution strategy.
 - c) Whether law in relevant home and host jurisdictions overrides contractual termination rights in financial contracts that are triggered solely by the failure and resolution of an affiliated company.

Article 12

Assessment of feasibility: other

5. The following issues shall be considered in assessing whether there are potential impediments to resolution related to legal issues not already mentioned in other categories:
 - a) Whether requirements for regulatory approvals or authorisations necessary to deliver the resolution strategy can be met in a timely manner.
 - b) Whether significant contractual documentation permits termination of contracts on entry into resolution.
 - c) Whether contractual obligations which cannot be disappplied by the resolution authority prohibit any transfer of assets and/or liabilities envisaged in the resolution strategy.

Article 13

Assessment of credibility of a resolution strategy

1. After assessing the feasibility of the selected resolution strategy, resolution authorities shall assess its credibility. The assessment shall consider the likely impact of the institution's resolution on the financial systems and real economies of any Member State or of the Union, with a view to ensuring the continuity of critical functions carried out by the institution or group. This shall include an assessment of matters addressed in clauses 21 to 28 of Section C of the Annex to the Directive 2014/59/EU.
2. In conducting this assessment, resolution authorities shall consider the likely impact of the implementation of the resolution strategy on the financial systems of any Member State or of the Union. For this purpose, resolution authorities shall take into account the functions performed by the institution or group and assess whether implementation of the resolution strategy would be likely to have a material adverse impact on any of the following:
 - a) Financial market functioning and in particular the impact on market confidence;
 - b) Financial market infrastructures and in particular:
 - whether the sudden cessation of activities would constrain the normal functioning of financial market infrastructures in a manner which negatively impacts the financial system as a whole;
 - whether and to what extent financial market infrastructures could serve as contagion channels in the liquidation process.
 - c) Other financial institutions and in particular:
 - whether liquidation would raise the funding costs of or reduce the availability of funding to other financial institutions in a manner which presents a risk to financial stability.

- the risk of direct and indirect contagion and macroeconomic feedback effects
- d) The real economy and in particular on the availability of financial services.

Article 14

Final provisions

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission

The President

[For the Commission

On behalf of the President

[Position]

4. Accompanying documents

4.1 Cost- Benefit Analysis / Impact Assessment

4.1.1 Introduction

Article 10-12 of the BRRD requires the EBA to develop draft Regulatory Technical Standards (RTS) that specify the content of the resolution plans and Article 15 of the BRRD requires the EBA to develop RTS that specify matters and criteria for the assessment of resolvability of institutions or groups.

As per Article 10(1) of the EBA regulation (Regulation (EU) No 1093/2010 of the European Parliament and of the Council), any draft regulatory technical standards developed by the EBA – when submitted to the EU Commission for adoption - shall be accompanied by an Impact Assessment (IA) annex which analyses ‘the potential related costs and benefits’. Such annex shall provide the reader with an overview of the findings as regards the problem identification, the options identified to remove the problem and their potential impacts.

This annex presents the impact assessment with cost-benefit analysis of the provisions included in the RTS. Given the nature of the study, the IA is high level and mostly qualitative.

4.1.2 Problem definition

Resolution authorities are required to produce plans for resolving credit institutions and investment firms on information provided by these institutions and firms. The core problem that the RTS aim to address is asymmetric information between authorities (both national competent authorities (NCAs) and resolution authorities) in different EU Member States (MS) and the moral hazard associated with the prospect of future bail-outs for systemically important financial institutions. The lack of common standards for the preparation of resolution plans and the assessment of resolvability reduces the capacity of national competent authorities and resolution authorities to react in a timely manner when confronted with resolution. This is true particularly in the EU banking framework with large cross-border elements. High level of coordination between authorities and among jurisdictions is crucial for effective and efficient regulatory intervention. A common set of information is a first step to devise a coordinated strategy.

A divergence of practices at the EU level could create uncertainty about the capacity of resolution authorities to detect barriers and define actions to remove impediments to the resolution of institutions under their own or joint responsibilities. Differences in implementation may also result in an uneven level playing field. Precisely, similar institutions could be assessed differently and thus required to carry out different actions with different associated costs. In particular, institutions located in different jurisdictions that may generate similar externalities in case of a disorderly failure can be subject to different requirements if the information that is available to the relevant authorities is not consistent among jurisdictions. The lack of harmonised rules may also give rise to difficulties in addressing resolution in cross border groups as no common terminology and criteria are in place.

4.1.3 Objectives

The current RTS aim to promote among national authorities the use of similar criteria and methods to assess the resolvability of institutions and of a similar content for the resolution plan. It will also help institutions and groups identify and prepare the evidence for such an assessment in a timely manner. In the case of cross border groups, the harmonisation of practices will facilitate the assessment by the resolution colleges.

4.1.4 Baseline scenario

The IA aims to capture the incremental change from the baseline, i.e. from the current situation to the situation that will arise if the proposal is implemented. Currently, EU MS do not have in place banking sector specific resolution mechanism that requires the development of resolution plans and the assessment of resolvability. The exceptions are Denmark, Germany, Sweden and the UK. European Commission's (EC) IA for the BRRD⁶ states that only these Member States operate special resolution systems.

The baseline scenario for the IA will be different for the EU MS depending on whether a jurisdiction has regulation requiring resolution plans and resolvability assessment or has not developed any such requirements. For the first group of countries the baseline is defined by the

⁶ SWD(2012) 166 final (6.6.2012)

existence of these plans. The impact will depend on the incremental requirements implied by the RTS, including:

- institutional coverage for which a resolution plan needs to be drawn,
- content of such resolution plan, and
- process and criteria for the assessment of resolvability.

If the content of the RTS does not imply any change on a particular jurisdiction then the impact of the policy intervention on that particular jurisdiction is expected to be zero.

The focus of the IA will therefore be those jurisdictions that have not started the development of such plans. As far as possible, the impact on both the resolution authorities and financial institutions will be assessed.

The scope of the RTS and guidance is on the contents of resolution plans, and criteria and procedure for the assessment of resolvability. Therefore, the analysis below discusses the impact associated with the production of resolution plans and assessment framework. It does not cover any changes in business operations, business structure or any other effects derived from the conclusions of plans, i.e. plans may require taking action to improve a firm's resolvability or the likely increase in the cost of funding to firms as a result of the changed market expectations of future taxpayer support. Such indirect costs had already been considered under BRRD. Moreover, it will be difficult to disentangle the contribution to costs and benefits of resolution planning from those stemming from other legislative initiatives such as the proposal on structural reform of EU banks, the revision of the large exposures regime or the new liquidity requirements that may impact the resolvability of a firm.

4.1.5 Assessment of the technical options

Resolution plans aim at a rapid, efficient and effective execution of potential measures that can substantially decrease the social cost of bank failure. If resolution authorities are fully aware of the options they have to resolve a failing bank or group, the likelihood of a successful resolution is substantially higher. Resolution plans are regarded as contingency plans devised to mitigate potential impacts of exceptional risk of disorderly failures.

The current section analyses major technical options that are considered under the RTS.

4.1.6 Options related to the content of resolution plans

Different options were considered as far as the contents of the resolution plan:

a. Level of detail in the definition of content of resolution plans.

Option 1: detailed approach.

Option 2: categorised approach.

A detailed approach (Option 1) would aim at making all the provisions contained in resolution plans identical or very similar. It would facilitate the production and the comparison of the plans across Member States.. However, financial institutions and their complex structure vary. A set of elements may be relevant for one institution but not for another, so the homogeneity in the presentation of the plan is not necessarily an asset.

In fact, Financial Stability Board (FSB) guidance on the contents of operational resolution plans focuses primarily on resolution strategies for global systemically important financial institutions (G-SIIs), while the scope of the current RTS is broader, so that there is a need to account for the heterogeneity of the institutions within and across Member States. The resolution plan that the current RTS propose include provisions related to the resolution strategy, the information, operational and financial arrangements, and the communication with critical stakeholders groups. These are the aspects that are also covered in the FBS guidance document. In addition to these elements, the current RTS also cover a quantified assessment of any changes to minimum requirements for eligible liabilities required to address resolvability and the views expressed by the firm. The additional items are believed to increase the credibility of the resolution plan. The terms of the discussion with the institution whose resolution plan has been defined reinforces the authorities' commitment and provide a better understanding of the issues that may arise in resolution from the way a firm organises its operations.

The need to harmonise the contents of resolution plans so as to ensure a consistent and effective approach to resolvability in EU MS needs to be aligned with Article 4 of the BRRD. Article 4 of the BRRD states the possibility of simplified obligations for certain institutions, in particular, as regards the contents and detail of recovery and resolution plans. A categorisation of the content of the plan (Option 2) has the advantage that it can accommodate any needs arising from the different characteristics of financial sectors and institutions in EU MS, ensuring that the principle of proportionality is respected. Specifically, it allows for the demand on resources for the

production of such plan to be proportionate to the size, complexity and systemic nature of financial firms. Such flexibility has the drawback that institutions in different jurisdictions may have to provide different detailed specific information to facilitate resolution planning. Moreover, it does not provide any guidance to institutions as regards the specific format and information that they will be required to provide to national resolution authorities, thus slowing down the production of such plans.

The proportionality principle has supported the choice of a categorised approach (Option 2) as it can accommodate the different needs arising from different firm complexities and structures, while providing a common background.

4.1.7 Options related to the matters and criteria for the assessment of resolvability of institutions or groups

Several options have been considered in relation to the assessment of resolvability.

a. Content of assessment of resolvability

Option 1: exclusively develop the matters specified in Annex C of BRRD.

Option 2: categorisation of matters specified in Annex C of BRRD in relation to feasibility and credibility.

The first question in relation to the criteria to assess resolvability has been whether to limit the contents of the assessment to developing in detail the matters specified in Section C of the Annex (Option 1). A detailed specification would not necessarily ensure homogeneity in the content of the assessment as for that to happen, all contingencies would need to be covered. The progress made in the FSB in defining some of the relevant areas has suggested the need to expand beyond this initial setting. A categorisation (Option 2) in terms of the impediments to structure and operations, financial resources, information, cross-border issues and legal issues should provide a solid basis on which to build the assessment and should enable the assessment of impediments to resolution in a more consistent way, thus easing their removal. As a result, option 2 is the preferred option.

b. Process of assessment of resolvability

Option 1: No process is suggested.

Option 2: Guidance on process is proposed.

The option of doing nothing as regards the process to carry out the resolution plan was considered (Option 1). The BRRD does not specify a process that needs to be followed when assessing resolvability. However, it establishes that resolution should be carried out only when winding down of an institution or group under normal insolvency proceedings would not be in the public interest. Level 1 text seems to be setting a certain order in which the resolvability assessment needs to be carried out. Without being prescriptive, proposing a sequence for the resolvability assessment can provide a first step of a common framework through which the assessment process is taken place. In particular, guidance formulated within the current RTS (Option 2) proposes that the stages include:

- assessing the feasibility and credibility of liquidation,
- the selection of the preferred resolution strategy and variants,
- the assessment of the feasibility of the assessment, and
- the assessment of the credibility of the selected strategy.

The choice of guidance should assist authorities in the process and would result in a more homogeneous approach as following alternative steps could lead to different assessments. It also contributes to minimising costs as the defined steps imply that complementary information and the associated analysis is only requested if needed, reinforcing proportionality. Therefore, Option 2 is the preferred option.

c. Assessment of resolvability depending on number of points of entry:

Option 1: different criteria and different elements to be considered depending on whether an SPE or a MPE approach has been chosen.

Option 2: identical approach independently on whether an SPE or a MPE strategy has been followed.

The Directive does not explicitly recognise in the assessment of resolvability the need to distinguish between 'single-point-of-entry' (SPE) or 'top down' resolution, whereby resolution actions (including bail-in) are triggered by home resolution authorities and "multiple-point-of-

entry” (MPE) resolution, whereby resolution action can also be triggered by one or more host regulators. The FSB guidance (July 2013) favours such distinction in the assessment as regards the appropriateness of the resolution strategy. So, following this guidance, Option 1 proposes that different criteria and different elements be considered depending on whether an SPE or a MPE approach has been chosen. However, the possibility that a combination of both strategies might be needed to accommodate the structure of a firm could make such distinction not extremely likely to effectively being implemented.

The current RTS do not propose strategy specific (whether an SPE or a MPE) matters and criteria for the assessment of the feasibility and credibility of the resolution strategy (Option 2), but it proposes assessing the appropriateness of these strategies. The logic behind this approach is the following: the final objective of the assessment is to ensure that the firms are effectively resolvable but the nature of the problems that might need to be addressed to establish an effective framework for resolvability may be diverse across institutions and jurisdictions. Similar requirements could then result under both strategies which in this case is not desirable. Therefore, Option 2 seems more appropriate.

d. Fall-back resolution options in the resolvability assessment

Option 1: Carry out the assessment only for the preferred strategy and variants.

Option 2: Carry out the assessment including fall-back options.

The resolution plan should take into consideration the fact that the event of failure may be idiosyncratic or may occur at a time of broader financial instability or system wide events. The resolvability assessment could address all these possibilities (Option 2), setting a fall-back option or could only refer to a preferred strategy, with the possibility to introduce variants of that strategy to address circumstances in which it is not feasible (Option 1).

The resolution tools that the resolutions authorities will use depend on the specific circumstances at the time of resolution. Therefore, it is not possible to determine the exact tools at disposal. An appropriate plan would however ensure that the objectives of protecting critical functions, government funds and systemic stability are met.

A fall-back option plan has the advantage of addressing resolution in relation to other possible scenarios that may arise. A drawback of the fall-back option is that it will never be able to cover

all potential scenarios. Therefore, the fall-back plan may be very costly (and even more than the benefits) for the policy makers in terms of reduced credibility. Moreover, the availability of alternatives may lead confusion in the policy choice hence action may not be taken in a timely manner. A preferred strategy has the advantage of being consistent with the resolvability assessment which is carried out under such an approach. The preferred strategy is also aligned with the approach suggested by the FSB for resolution planning for global systemically important financial institutions. FSB argues that “experience has indicated that resolvability could only coherently be assessed on the basis of a clearly identified resolution strategy”. Its main drawback is that there may be cases where the strategy cannot be effectively applied due to deteriorating macroeconomic and financial conditions in the economy. The RTS includes an assessment option that is focussed on a preferred strategy, with the possibility to introduce variants of that strategy to address circumstances in which it is not feasible. As a result, Option 1 is selected as the preferred option.

4.1.8 Costs and benefits of chosen options

Extended resolution plans will need to be drawn up for all institutions or groups which are not feasibly and credibly resolvable through liquidation in accordance with normal insolvency procedures. Those that can be liquidated will have a resolution plan limited to the assessment of resolvability and in accordance with proportionality. Defining, analysing and maintaining resolvability plans would entail costs for both national authorities and institutions.

Costs

There are currently over 6000 credit institutions and over 3000 investment firms and about 600 foreign (EEA and non-EEA) branches operating in the EU⁷. Before the introduction of the BRRD, only a few Member States (DE, DK, SE, and UK)⁸ operated special bank resolution systems. It is reasonable to expect that the impact of the current regulation in terms of costs will be higher for the institutions and firms that are not covered by these resolution systems. When the entities in these Member States are excluded then there are approximately 4000 credit institutions, 1000 investment firms and 500 (EEA and non-EEA) branches operating in the EU that do not have in

⁷ EBA, Aggregate Statistical Data: Data on national banking sector (2012).

⁸ BRRD IA, SWD(2012) 166 final (06.06.2012)

place a resolution framework that includes a resolution plan and assessment criteria for resolvability.

In addition, the application of proportionality as defined in Article 4 of BRRD could substantially reduce these figures. It is reasonable to assume that at least all other systemically important domestic financial institutions (O-SIIs) will be subject to the regulation on resolution plan in accordance with the current RTS which will involve the description of a resolution strategy that is other than liquidation. It is assumed that at least 10% of these institutions, i.e. 420 credit institutions and 110 investment firms will be subject to the full development of a resolution plan and thus to the costs arising from the production of such plan.

These RTS will generate direct costs among national competent authorities and/or resolution authorities that would have conducted less extensive or different assessments than those proposed by the RTS. These costs for the competent authorities will be mainly driven by the need to train existing staff or hire additional staff members that would need to carry out required assessments and to change some of their IT or system framework.

According to the data published for Recovery and Resolution Plans in Germany⁹, the cost of developing a resolution plan for the resolution authority or other relevant authority in charge of resolution planning is estimated to be over €34,000 per firm. The same source also estimates the per-firm-cost for the authorities associated with the ex-ante resolvability assessment and annual ex-post resolvability assessment as €3,500 and €11,000 respectively. Also, the average cost associated with the colleges' activities for an institution is about €6,500.

Compliance costs of contributing to the production of resolution plan once a year will be incurred by banking groups. Institutions may incur further compliance costs if they have to commit additional resources to facilitate the analysis of the authority and reduce the probability of being assessed as non-resolvable. These costs for the institutions that are subject to resolution planning will be mainly driven by the need to provide data and information on a timely manner, to train existing staff or hire additional staff members that would need to provide the additional

⁹ Gesetzentwurf der Bundesregierung. "Entwurf eines Gesetzes zur Abschirmung von Risiken und zur Planung der Sanierung und Abwicklung von Kreditinstituten und Finanzgruppen" Drucksache 17/12601. 04. 03. 2013.

information required. Additionally, the resulting measures to remove barriers to resolvability will certainly imply additional costs.

The analysis uses the data from the UK FSA consultation paper¹⁰ to estimate cost figures for the EU Member States with some insights from the statistics in German industry¹¹. The approach has some caveats but relies on most recent available data. The analysis is based on an application of the UK cost figures for other EU Member States. The UK figures present aggregate cost for recovery and resolution therefore statistics from German documentation which provide disaggregate data are used to isolate the figures for resolution plan. The estimated ongoing cost range per annum of producing a resolution plan for the EU is between €50 million and €114 million for the institutions. Table 1 presents the findings.

¹⁰ FSA, Consultation Paper 11/16. August 2011 “Recovery and Resolution plans”.

¹¹ Gesetzentwurf der Bundesregierung. “Entwurf eines Gesetzes zur Absicherung von Risiken und zur Planung der Sanierung und Abwicklung von Kreditinstituten und Finanzgruppen” Drucksache 17/12601. 04.03.2013.

Table 1 Estimated ongoing annual cost for developing a resolution plans for the institutions in EU Member States*

MS	Total assets	Total assets of large institutions	Asset share of large institutions	Total assets of medium-size institutions	Asset share of medium-size institutions	Total assets of small institutions	Asset share of small institutions	Cost range for developing a resolution plan - total institutions		Cost range for developing a resolution plan - large institutions		Cost range for developing a resolution plan - medium-size institutions		Cost range for developing a resolution plan - small institutions	
[A]	[B]	[C]	[D]	[E]	[F]	[G]	[H]	[I]		[J]		[K]		[L]	
AT	847,589,865			722,603,000	85%	124,986,865	15%	1,205	2,717			1,027	2,316	178	401
BE	520,302,800	224,824,163	43%	293,268,264	56%	2,210,373	0%	740	1,668	320	721	417	940	3	7
BG	11,127,105					11,127,105	100%	16	36					16	36
CY	75,064,383			73,267,361	98%	1,797,022	2%	107	241			104	235	3	6
CZ	13,028,832			10,829,868	83%	2,198,964	17%	19	42			15	35	3	7
DK	806,734,468	662,137,382	82%	117,046,702	15%	27,550,384	3%	1,147	2,586	941	2,122	166	375	39	88
EE	742,004					742,004	100%	1	2					1	2
FI	148,519,348			133,114,285	90%	15,405,063	10%	211	476			189	427	22	49
FR	6,583,470,345	6,313,586,933	96%	268,440,760	4%	1,442,652	0%	9,361	21,100	8,977	20,235	382	860	2	5
DE	7,257,126,818	4,103,443,106	57%	2,394,760,315	33%	758,923,397	10%	10,319	23,259	5,835	13,152	3,405	7,675	1,079	2,432
EL	346,003,175			343,819,191	99%	2,183,984	1%	492	1,109			489	1,102	3	7
HU	44,955,564			36,649,394	82%	8,306,170	18%	64	144			52	117	12	27
IE	351,617,924	0	0%	351,617,924	100%	0	0%	500	1,127	0	0	500	1,127	0	0
IT	2,602,741,896	1,750,459,712	67%	834,803,378	32%	17,478,806	1%	3,701	8,342	2,489	5,610	1,187	2,676	25	56
LV	10,714,603			7,631,730	71%	3,082,873	29%	15	34			11	24	4	10
LI	1,214,208					1,214,208	100%	2	4					2	4
LU	90,445,068			84,048,497	93%	6,396,571	7%	129	290			120	269	9	21
MT	11,574,699			0	0%	11,574,699	100%	16	37			0	0	16	37
NL	2,414,614,785	1,982,356,783	82%	429,127,265	18%	3,130,737	0%	3,433	7,739	2,819	6,353	610	1,375	4	10
PL	127,570,437	0	0%	101,758,965	80%	25,811,472	20%	181	409	0	0	145	326	37	83
PT	384,519,349	0	0%	379,631,230	99%	4,888,119	1%	547	1,232	0	0	540	1,217	7	16
RO	8,457,913			6,070,269	72%	2,387,644	28%	12	27			9	19	3	8
SK	6,466,296					6,466,296	100%	9	21					9	21
SI	34,577,817			29,802,221	86%	4,775,596	14%	49	111			42	96	7	15
ES	3,594,895,539	2,552,047,564	71%	1,013,470,726	28%	29,377,249	1%	5,111	11,522	3,629	8,179	1,441	3,248	42	94
SE	1,626,385,155	1,450,905,203	89%	161,136,263	10%	14,343,689	1%	2,312	5,213	2,063	4,650	229	516	20	46
UK	7,551,021,992	7,249,000,076	96%	269,516,755	4%	32,505,161	0%	10,736	24,201	10,307	23,233	383	864	46	104
EU	35,471,482,388	26,288,760,922		8,062,414,363		1,120,307,103	15%	50,435	113,686	37,379	84,256	11,464	25,840	1,593	3,591

*Source and notes: - ECB Statistical Data Warehouse: Consolidated banking data. - Assets are expressed in monetary values, in thousands of Euros.

- Institutions cover banking groups and stand-alone banks.

The UK FSA consultation paper provides an estimated range of cost for producing a recovery and resolution plan for the entire industry. In the approach, the analysis team first expressed the cost of producing a recovery and resolution plan in per asset terms, i.e. cost range for the entire industry over total assets. It is then assumed that the share of developing a resolution plan for an institution in total costs of producing a recovery and resolution plan in the UK is the same as in Germany, i.e. 10.4%. The cost range for producing a resolution plan per asset is then calculated. Columns [I] – [L] in Table 1 present the ongoing cost ranges (calculated as asset value times cost per asset) by the size category of the institutions in each Member States. The estimated cost falls within a range of €37 million to €84 million for large institutions, €11 million to €26 million for medium-size institutions and €1.6 million to €3.6 million for small institutions.

The figures are estimation only and a caveat of the approach is that it assumes a linear relation between the asset size and the cost for preparing a resolution plan, i.e. the higher the asset value of an institution the more costly preparing a resolution plan will be.

Similarly, Table 2 presents the range for potential on-off cost estimates that can the institutions may bear in producing resolution plans. One-off costs are defined as costs that are incurred only once e.g. IT and systems costs, staff training costs or similar.

Table 2 Estimated one-off cost for developing resolution plans for the institutions in EU Member States*

MS	Total assets	Total assets of large institutions	Asset share of large institutions	Total assets of medium-size institutions	Asset share of medium-size institutions	Total assets of small institutions	Asset share of small institutions	Cost range for developing a resolution plan - total institutions		Cost range for developing a resolution plan - large institutions		Cost range for developing a resolution plan - medium-size institutions		Cost range for developing a resolution plan - small institutions	
[A]	[B]	[C]	[D]	[E]	[F]	[G]	[H]	[I]		[J]		[K]		[L]	
AT	847,589,865			722,603,000	85%	124,986,865	15%	120	9,908			102	8,447	18	1,461
BE	520,302,800	224,824,163	43%	293,268,264	56%	2,210,373	0%	74	6,082	32	2,628	42	3,428	0	26
BG	11,127,105					11,127,105	100%	2	130					2	130
CY	75,064,383			73,267,361	98%	1,797,022	2%	11	877			10	856	0	21
CZ	13,028,832			10,829,868	83%	2,198,964	17%	2	152			2	127	0	26
DK	806,734,468	662,137,382	82%	117,046,702	15%	27,550,384	3%	114	9,430	94	7,740	17	1,368	4	322
EE	742,004					742,004	100%	0	9					0	9
FI	148,519,348			133,114,285	90%	15,405,063	10%	21	1,736			19	1,556	2	180
FR	6,583,470,345	6,313,586,933	96%	268,440,760	4%	1,442,652	0%	933	76,956	895	73,801	38	3,138	0	17
DE	7,257,126,818	4,103,443,106	57%	2,394,760,315	33%	758,923,397	10%	1,028	84,831	581	47,966	339	27,993	108	8,871
EL	346,003,175			343,819,191	99%	2,183,984	1%	49	4,045			49	4,019	0	26
HU	44,955,564			36,649,394	82%	8,306,170	18%	6	525			5	428	1	97
IE	351,617,924	0	0%	351,617,924	100%	0	0%	50	4,110	0	0	50	4,110	0	0
IT	2,602,741,896	1,750,459,712	67%	834,803,378	32%	17,478,806	1%	369	30,424	248	20,462	118	9,758	2	204
LV	10,714,603			7,631,730	71%	3,082,873	29%	2	125			1	89	0	36
LI	1,214,208					1,214,208	100%	0	14					0	14
LU	90,445,068			84,048,497	93%	6,396,571	7%	13	1,057			12	982	1	75
MT	11,574,699			0	0%	11,574,699	100%	2	135			0	0	2	135
NL	2,414,614,785	1,982,356,783	82%	429,127,265	18%	3,130,737	0%	342	28,225	281	23,172	61	5,016	0	37
PL	127,570,437	0	0%	101,758,965	80%	25,811,472	20%	18	1,491	0	0	14	1,189	4	302
PT	384,519,349	0	0%	379,631,230	99%	4,888,119	1%	54	4,495	0	0	54	4,438	1	57
RO	8,457,913			6,070,269	72%	2,387,644	28%	1	99			1	71	0	28
SK	6,466,296					6,466,296	100%	1	76					1	76
SI	34,577,817			29,802,221	86%	4,775,596	14%	5	404			4	348	1	56
ES	3,594,895,539	2,552,047,564	71%	1,013,470,726	28%	29,377,249	1%	509	42,022	362	29,832	144	11,847	4	343
SE	1,626,385,155	1,450,905,203	89%	161,136,263	10%	14,343,689	1%	230	19,011	206	16,960	23	1,884	2	168
UK	7,551,021,992	7,249,000,076	96%	269,516,755	4%	32,505,161	0%	1,070	88,266	1,027	84,736	38	3,150	5	380
EU	35,471,482,388	26,288,760,922		8,062,414,363		1,120,307,103	15%	5,026	414,636	3,725	307,297	1,142	94,244	159	13,096

*Source and notes: - ECB Statistical Data Warehouse: Consolidated banking data. - Assets are expressed in monetary values, in thousands of Euros.

- Institutions cover banking groups and stand-alone banks.

Benefits

Resolution plans are expected to reduce moral hazard. They signal to the market that authorities will take action to avoid rescuing large firms, and that no firm is necessarily considered as too big or too complex or too interconnected to fail. This can already have a positive effect on market discipline. The RTS will help competent authorities promptly identify potential issues that may impede the resolvability of their institutions. Specifying a general requirement to assess resolvability with respect to broad categories of requirement increases the chances that the assessment process will identify any potential issues. This analysis will determine which actions may need to be taken by the institutions to ensure feasible and credible resolution. It will also ensure that the analysis of resolvability is conducted under the same standards across the EU and facilitate the cooperation of national authorities supervising the same cross-border institution.

Resolution strategies in EU MS will become more credible if a common framework is followed, as it could act as an effective anchor. It will also provide institutions with criteria to define their strategies that ensure their resolvability at their lowest cost.

It is expected that the benefits of rapid and more effective supervisory actions and minimising moral hazard would substantially exceed the costs generated by the regulation.

4.2 Views of the Banking Stakeholder Group (BSG)

The BSG supported the EBA's view that resolution authorities need to identify a resolution strategy to carry out effective resolution planning and resolvability assessment. The BSG considered that this strategy should not be overly detailed, and in particular supported a phased approach to resolution planning to avoid disproportionate information requirements. The BSG also considered that there should not be an overly wide range of variant strategies considered.

As respondents to the consultation in general, the BSG did not support further distinctions between more or less essential critical functions.

On the issue of whether further specification is needed of how loss absorption in banking groups is implemented, the BSG held the view that no further specification would be needed, as each group has its own characteristics.

4.3 Feedback on the public consultation

The EBA publicly consulted on the draft proposal contained in this paper.

The consultation period started on 9 July 2014 and ended on 9 October 2014. 10 responses were received, of which 8 were published on the EBA website.

This paper presents a summary of the key points and other comments arising from the consultation, the analysis and discussion triggered by these comments and the actions taken to address them if deemed necessary.

In many cases several industry bodies made similar comments or the same body repeated its comments in the response to different questions. In such cases, the comments, and EBA analysis are included in the section of this paper where EBA considers them most appropriate.

Changes to the draft Guidelines have been incorporated as a result of the responses received during the public consultation.

Summary of key issues and the EBA's response

The main points raised by the respondents with regard to these draft RTS are as follows:

SPE/MPE distinction

1. Many respondents agreed that a preferred resolution strategy needs to be identified to conduct resolution assessments. Some respondents suggested changes to the description of the distinction between SPE and MPE models.

EBA response:

Some changes have been made to the description of MPE strategies (e.g. in recital 5)

Variant strategies

Many respondents were concerned about the potential for variant strategies to be interpreted as diverging overall resolution strategies in view of removing impediments to resolvability. In their view, provided that an institution is resolvable under one resolution strategy, there is no need to require the institution to take measures to address any impediments to a 'variant' or any other resolution strategy this it would impair or disproportionately increase the costs of measures to remove impediments.

EBA response:

It may be necessary to plan variant strategies to be used in the event that the preferred resolution strategy is unlikely to be effective in its stated objectives or cannot feasibly be implemented. For this to be achieved, the guidelines on removing impediments to resolvability therefore explicitly clarify in paragraph (6) that measures required to remove impediments to alternative variants should only be implemented if they do not impair the feasible and credible implementation of the preferred option. This prevents resolution authorities from implementing inconsistent and contradictory measures.

Loss absorbing capacity

Several respondents were concerned that the term 'loss absorbing capacity' may not have precisely the same meaning in the RTS as in the recent FSB policy proposal, and that this could lead to confusion.

EBA response:

The draft RTS text has been amended to take account of further policy development work on both the FSB's proposals on loss absorbing capacity and on the criteria for setting MREL under the BRRD. The term 'loss absorbing capacity' is no longer used.

Impediments to business reorganisation

Some respondents felt that the RTS should not require resolution authorities to identify impediments to the longer-term reorganisation of a resolved bank.

EBA response:

Reorganisation to address the causes of failure is necessary to achieve the objectives of resolution, and is explicitly required by the BRRD in cases where the bail-in tool is used. This requirement has therefore been retained. The RTS makes clear that the requirement to remove impediments to business reorganisation is further specified to address only foreseeable impediments. As emphasised in the EBA guidelines on measures to remove impediments to resolvability, any such measures must also be proportionate and necessary.

Summary of responses to the consultation and the EBA's analysis (NB article numbers refer to the consultation paper version of the RTS unless otherwise specified).

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
General comments			
1. Distinction between SPE and MPE	Many respondents considered the use of a preferred resolution strategy as necessary to conduct resolution assessments. Some respondents would prefer a clear statement that SPE and MPE are stylised models of preferred resolution strategies	The EBA agrees that it is important to use resolution strategies to establish an approach for resolving the failing firm in a way that protects its critical functions, government funds and systemic stability, and achieves other relevant resolution objectives. Resolution strategies are a key component in developing the overall resolution plan required under the BRRD. There is no binary choice between the two stylised approaches for resolution planning purposes.	Expansion of recital 5 to include concept of 'regional' sub-groups to the MPE definition
2. Link with FSB guidance and RAP for G-SIBs	Many respondents suggested it would be helpful to make more explicit cross references to existing FSB guidance on effective resolution strategies and the FSB Resolvability Assessment Process (RAP) which applies to G-SIBs.	The EBA agrees there are links with FSB standards and the G-SIB resolvability assessment process. It is for this reason that Recitals 1 and 5 refer to the FSB guidance and draw on the FSB definition of stylised resolution strategy models, SPE and MPE However, as these RTS are a legal text it is not possible to refer to FSB texts in	No amendments

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		the articles of the RTS as they are beyond the scope of the BRRD level one text.	
3. Recognition of 3 rd country led resolution of bank in the EU	One respondent considered it important for the RTS to preserve flexibility so that the resolution plan for a bank within Europe could be to recognise and give effect to a^t third country home authority led resolution of the global banking group and therefore, would not necessitate an SPE or MPE strategy within Europe. Another respondent suggested that within the SSM it is likely to make sense to apply an SPE approach, while for groups headquartered outside the EU, it will make sense to apply an MPE approach.	The RTS does not preclude a global resolution strategy for a global group operating both in the EU and a third country jurisdiction. Equally, the RTS does not imply that a MPE approach is more appropriate for parts of a banking group operating outside the EU.	No amendments
4. Removing impediments to both stabilisation and business reorganisation	Respondents agreed that impediments to resolution need to be removed to ensure a failing firm can be stabilised. However, since causes of failure are uncertain, some did not agree that removing impediments to business reorganisation is appropriate or proportionate. One respondent considered that the RTS should reflect that the ultimate goal of a resolution business reorganisation should be for the bank to exit the market On timing, one respondent said it is important to emphasise that resolvability assessment is an ongoing process that evolves overtime as firm's work to remove barriers	The BRRD requires resolution authorities to ensure resolution plans are feasible and credible. This may necessitate the use of BRRD Article 17 measure to remove impediments to resolvability, which includes both stabilisation and a business reorganisation to address the cause of failure. The RTS makes clear that the requirement to remove impediments to business reorganisation is further specified to address only foreseeable impediments. The BRRD creates no requirement for the authorities to ensure a resolved	Amendment to Article 7(2) to make clear that BRRD Article 17 measures can be used to remove impediment to stabilisation and <u>foreseeable</u> impediments to business reorganisation.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		institution exits the market As emphasised in the EBA Guidelines on measures to remove impediments to resolvability, any such measures must also be proportionate and necessary	
5. Definition of loss absorbing capacity	Several respondents noted the importance of aligning the definition of loss absorbing capacity in the this RTS with the RTS on MREL	The EBA agrees that it is important for this RTS to align with the RTS on Criteria for determining MREL. We agree that we should avoid introducing a new definition of loss absorbing capacity in these RTS and should instead draw on the terminology likely to be used in the RTS on Criteria for determining MREL.	Removal of the definition of loss absorbing capacity. This deletion should be reflected in the body of the RTS, replacing the definition of loss absorbing capacity with “liabilities expected to contribute to loss absorption and recapitalisation” Amendment to the start of Article 7(5)(b) so that it reads “Resolution authorities need to identify any liabilities which are not likely to contribute to loss absorption or recapitalisation under the preferred resolution strategy, considering at a

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
			minimum the following factors” Amendment to Article 6(3)(b) to replace ‘quality’ with ‘risk of liabilities not contributing to loss absorption or recapitalisation’ and replace ‘other loss absorbing capacity’ with ‘liabilities expected to contribute to loss absorption and recapitalisation’
6. Preferred versus variant resolution strategies	Most respondents expressed a concern regarding requirements to prepare, and remove impediments to, variants resolution strategies. Many preferred to characterise the variant resolution strategies as a sub-set of the preferred resolution strategies, rather than an entirely different resolution strategy. One respondent questioned whether the selection of a preferred resolution strategy as a basis for conducting the resolvability assessment is consistent with the BRRD requirement to prepare different resolution strategies for different scenarios.	Resolution authorities may also identify variant strategies to be applied in circumstances where the preferred resolution strategy is likely to fail in its stated objectives or where it is unlikely to be possible to implement it successfully. This particularly applies to cross-border groups. If authorities consider variant strategies necessary, impediments to the implementation of any variants could be taken into account and removed where authorities judge necessary. However, these measures should be compatible with and should not impair feasible and credible	See revised recitals 4 and 5 In Article 6(4), reiterate that measures required to remove impediments to variants should only be implemented if they do not impair the feasible and credible implementation of the preferred option.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		implementation of the preferred resolution strategy.	
7. Assessment of credibility	Some respondents disagreed with the assessment of credibility occurring after the identification of impediments to resolvability; instead they considered the credibility assessment a component of the assessment of liquidation under Article 5.	The process established in Article 4 (1) for the assessment of resolvability is an iterative process. Article 4(5) makes clear that a resolution authority shall revise the preferred resolution strategy or consider alternative strategies based on a completed assessment of resolvability under the resolution strategy selected as per Article 4(1)(b).	In recital 4, emphasise that the steps set out in Article 4(1) represents an iterative resolvability assessment framework Provide clarification in Article 4(5) to emphasise the iterative nature of the resolvability assessment.
8. Definitions	Include a description of third country in Art2 list of definitions	The term 'third country' is well understood terminology in EU legislation and EBA regulatory products.	No amendment
9. Content of resolution plans	One respondent disagreed with the emphasis in Article 3(b)(v) on resolution plans including detail on variant resolution strategies Respondents made a number of minor suggestions, as follows: I. Include 'where relevant' in first sentence of Article 3(c) II. Include share/bond holders and depositors as parties covered by Article 3(f)iii on	Resolution authorities may identify variant strategies to be applied in circumstances where the preferred resolution strategy is likely to fail in its stated objectives or where it is unlikely to be possible to implement it successfully. The EBA agrees with points (II) and (III).	Amendment to the reference to communications to include shareholders, bondholders and depositors explicitly inclusion of a requirement to summarise the conclusions of the

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	communications III. Include a summary of the assessment of insolvency option as an Article 3 requirement		liquidation assessment required under Article 4(1)a
Responses to questions in Consultation Paper EBA/CP/2014/16			
Question 1. Do you agree that this step should be distinguished from the assessment of resolution strategies and carried out first?	The majority of respondents were supportive of assessing liquidation before deciding whether a resolution plan is required Some respondents noted once it has been decided that a resolution plan and resolvability assessment is required, assessing liquidation should not be an excessively detailed process particularly for large systemic firms, and should not be an ongoing requirement. A few respondents proposed that the Article 5 assessment of systemic impact of liquidation be conducted before assessing the operational feasibility of firm's systems to support DGS work in liquidation, and to clarify that if the former is sufficient to require a resolution plan, the latter assessment is not required to decide a resolution plan is required.	Article 5 requires resolution authorities to conduct an assessment of feasibility and credibility of liquidation for <u>all</u> firms, regardless of size, a summary of which should be included in the resolution plan as specified in Art3(g)ii. On Article 5 ordering of the aspect of the liquidation assessment, the EBA agrees that if it is judged that a firm cannot be liquidated due to concerns related to systemic impact, then that is sufficient basis for considering that a resolution plan is required and that a resolvability assessment should be conducted. However, even for firms that could be liquidated without systemic impact, the inability of the firm's systems to support the DGS efforts to protect depositors may mean liquidation is not feasible and therefore, may also be used as a sufficient basis for considering a resolution plan is required and conducting a	Amendment to Article 5 to reverse the ordering of paragraph 2 on assessment of systemic impact of liquidation and paragraph 3 on whether a firm's systems are able to support the DGS. Amendment to paragraph 4 to make clear that judgement that liquidation is not credible is sufficient basis for conducting a resolvability assessment

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		resolvability assessment. Therefore, an assessment of firm's systems to provide information required by DGS in liquidation is required by Article 5 unless it can be demonstrated liquidation of the firm would have a systemic impact – the former can be a basis on its own for the requirement to develop a resolution strategy.	
Question 2. Do you agree that this initial stage (preliminary identification of resolution strategies) should be separately identified?	The majority of respondents agreed that the use of a resolution strategy is useful to set out the perimeter of a resolvability assessment and some considered that a choice for the resolution plan between SPE and MPE has to be made to assess firm resolvability in a meaningful way as they are radically opposed options. One respondent felt that within the SSM area, the SPE would be the preferred approach for intra-EU groups, while for groups from outside the EU, MPE would be the preferred resolution plan for the activities in the EU. A number of respondents felt it was appropriate to require authorities to inform firms of the authorities decision with respect to the preferred resolution strategy for the purposes of Articles 6, 7, and 8 assessment	The RTS requirements do not create a presumption with respect to whether SPE or MPE is more or less appropriate when involving a third country jurisdiction or a third country headquartered bank operating in the EU. The selection of a preferred resolution strategy and agreement of the resolvability assessment with third country authorities is a matter for resolution colleges or, where appropriate, FSB Crisis Management Groups for G-SIBs to discuss. These RTS cannot create new resolution strategy disclosure requirements for resolution authorities not specified in the BRRD Level 1 text.	No amendment
Question 3. Do you have comments	Respondents agreed with the general approach proposed	On Article 6(3)(a) requirements, the	Amend Article 6(3)a to

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
on the criteria proposed in Article 5 of the RTS, or their application to single- and multiple- point of entry strategies?	in Articles 5 and 6. Respondents made a number of more detailed comments on the contents of Article 6, as follows: I. In addition to a description of the tools that are available, Article 6(3)a should include a description of the resolution tool which will be used II. Clarify that Article 6(3)c requirement is mostly relevant for SPE, as in an MPE you want to prevent losses being transferred between legal entities which are to be resolved separately or by different resolution authorities III. One respondent considered Article 6(3)c should also require a similar assessment be made of arrangements for moving capital and liquidity around the group.	EBA agrees that a description of both the tools envisaged under the preferred resolution strategy is needed and it needs to be considered whether those tools are available. On Article 6(3)(c) , the EBA does not agree that arrangements in place for losses to be transferred between legal entities in a group are only relevant in an SPE context. For example, MPE sub-groups may need to consider mechanisms for the transfer of losses between the MPE sub-group entities. The EBA agrees that the assessment of arrangements for moving capital and liquidity around the group are relevant for assessment of feasibility of MPE	include explicit reference to tools that would be used under the preferred strategy Amend Article 6(3)d.ii to further elaborate on the definition of independence to include financial arrangements between MPE subgroups, as well as legal and operational interdependencies.
Question 4. Do you have comments on how those criteria should be applied to variant strategies?	All respondents noted the importance of clearly defining the role of variant resolution strategies and many expressed concern about being expected to remove barriers to multiple resolution strategies Some respondents suggested replacing 'variant strategies' with 'alternative options within the preferred strategy' or to more clearly define 'variant strategies' as a subset or simple variation of the preferred strategy.	Resolution authorities may also identify variant strategies to be applied in circumstances where the preferred resolution strategy is likely to fail in its stated objectives or it is unlikely to be possible to implement it successfully. However, the process for assessing resolvability is designed to ensure that feasible and credible resolution options consistent with the BRRD requirements are available in the	In Article 6(4), reiterate that measures required to remove impediments to variants should only be implemented if they do not impair the feasible and credible implementation of the preferred resolution strategy.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		event of firm failure. Selecting a preferred strategy is part of achieving this outcome. This is consistent also with FSB key attributes and other international standards. Variants strategies may be attractive to some resolution authorities. However, according to these RTS that they must be compatible with the preferred strategy.	
Question 5. Do you agree that these categories are appropriate and comprehensive?	One respondent proposed changing the title of this article to 'Assessment of feasibility of <i>the selected</i> resolution strategy' to clarify that the priority of the assessment is the preferred resolution strategy as opposed to variant strategies initially.	As noted in recital 3, the assessment of resolvability is only possible by selecting a preferred resolution strategy to structure the assessment of a firm's resolvability. That considered, it is clear from the process established in Article that this assessment is an iterative process and resolution authorities may, having assessed resolvability under one strategy, conclude that an alternative strategy should be assessed or is more appropriate.	Amendment to the title of Articles 6 and 8 to refer to "a" resolution strategy which is consistent with title of Articles 7
Question 6. Do you have comments on the matters identified under each category?	Respondents generally agreed with the matters identified under each category. A few responses noted some specific points, as follows: I. Article 7(6)c regarding information, more detail on what information will be required for valuation purposes was requested as well as	The RTS on valuation for the purposes of resolution will provide further elaboration on what information is required for valuation purposes. A draft RTS on valuation for the purposes of resolution has been published by the EBA for public consultation. (ii) The	

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	clarity that this information would be provide to authorities for them to conduct the valuation, not the firm II. Article 7(7)c should be limited to material contracts which contain rights to terminate in resolution which cannot be overridden by resolution powers or the recognition of resolution powers by another jurisdiction. III. Article 7(5)d on funding in resolution should include more detail on how funding needs would be quantified on a standardised basis across jurisdictions.	EBA agrees with proposed change (iii) Article 3(e) provides further details on the type of information required to specify funding requirements in the content of resolution plans . Future FSB standards on funding in resolution will provide more detail on how funding need would be quantified in 2015.	