

Draft Regulatory Technical Standards (RTS) on the assessment of recovery plans¹

a response from the British Bankers' Association

Introduction

The British Bankers' Association ("BBA") is the leading association for UK banking and financial services, representing members on the full range of UK and international banking issues. It has almost 200 banking members that are active in the UK, which are headquartered in 50 countries and have operations in 180 countries worldwide. All the major banking groups in the UK are members of our association as are large international EU banks, US and Canadian banks operating in the UK and a range of other banks from the Middle East, Africa, South America and Asia, including China. The integrated nature of banking means that our members are engaged in a wide range of activities, ranging widely across the financial spectrum from deposit taking and other more conventional forms of retail and commercial banking activities to products and services as diverse as trade and project finance, primary and secondary securities trading, insurance, investment banking and wealth management.

Our members are committed to recovery and resolution planning and the vast majority of them already view recovery planning as a business as usual process so we are pleased to be able to respond to the European Banking Authority's draft regulatory technical standards on the assessment of recovery plans.

Question 1 *If your recovery plan has already been assessed by a competent authority, what are your general comments to this RTS on the basis of your experience? In particular, which elements do you suggest to add to the assessment criteria specified in this RTS?*

BBA members have completed recovery plans and discussed them with the UK authorities and believe that the EBA's RTS assessment proposals are broadly aligned with current good practice.

Question 2 *Do you think that the elements which shall be subject to assessment according to this Article are comprehensive? Do you think that some of the elements should be amended? Do you think that some additional elements should be added?*

We think that the elements that should be subject to assessment are sufficiently comprehensive although we do think some changes could be made to clarify the role of scenario testing. We believe that the assessment should seek confirmation that the institution has undertaken scenario testing but not require a description of the actual scenarios against which the plan has been tested.

For instance we note that article 3 1(d) requires the plan to be tested against a *range of scenarios* and 3 2 (c) requires the plan to identify obstacles to implementation of the recovery plan *for each of the scenarios against which the plan was tested*.

¹ <http://www.eba.europa.eu/documents/10180/204980/EBA-CP-2013-08---CP-on-Draft-RTS-on-Assessment-of-Recovery-Plans.pdf>

Our view is that the plan should be flexible enough to be deployed in a wide range of different situations and that testing against specific scenarios (as is implied) may lead to ‘pavlovian’ response that is pre-programmed by senior management’s experience of testing against specific scenarios rather than focusing on its adaptability to a range of probably as yet unseen circumstances.

We therefore recommend the following wording:

~~3 1 d whether the recovery plan is sufficiently adaptable to be deployed in~~ has been tested against a range of scenarios as specified in.....of the Directive

Similarly we suggest that the association of obstacles to implementation of recovery plans should be decoupled from specific scenarios, such that 3 2 (c) could be re-written as:

~~3 2 c for each of the scenarios against which the recovery plan was tested in accordance with Article 5(5) of Directive xx/XXX/EU [RRD],~~ identification of obstacles to the implementation of recovery measures within the group are identified, or a statement that there are no such obstacles;

We note that 3 2 (d) requires that in order for the plans to be considered complete the institution must be able to identify the *substantial practical and legal impediments to the prompt transfer of own funds or the repayment of liabilities*. We appreciate the focus on ‘substantial’ impediments that arise from the way the institutions’ group operates but caution that the competent authorities themselves may, in the heat of a stress, throw up substantial impediments that cannot be foreseen by the institution.

The way to prevent such competent/resolution authority induced impediments is through the establishment of trusted relationships between home and host supervisors of a banking group active across national borders, not just within the EU but also with third countries, through strong support of the supervisory college and crisis management group concepts, which we fully support.

Question 3 *Do you think that the elements which shall be subject to assessment according to this Article are comprehensive? Do you think that some of the elements should be amended? Do you think that some additional elements should be added?*

We note that art 4 (c) refers to the ‘comprehensiveness’ of the plan but are confused about the overlap between comprehensiveness in this article 4 and the ‘*completeness*’ required by the preceding Article 3. We think the point that the draft RTS is seeking to make here relates to proportionality and, if this is the case, suggest that the word ‘comprehensiveness’ be deleted as follows:

~~c. the comprehensiveness of the recovery plan, taking into account in particular~~ the nature of the institution’s or the group’s business, its size and its interconnectedness to other institutions and groups and to the financial system in general, which means that:

Question 4 *Do you think that the elements which shall be subject to assessment according to this Article are comprehensive? Do you think that some of the elements should be amended? Do you think that some additional elements should be added?*

We are in agreement with the proposals noting that Article 5 addresses the two elements of the draft Article 6 2 directive text in respect of:

- a) testing the recovery plan’s operability
- b) testing the recovery plan’s wider impact on the financial system

We note some mixing up of these objectives so in the interests of clear demarcation suggest the following changes:

b. whether the recovery plan contains a sufficient number of plausible and viable recovery options which make it likely that the institution or the group would be able to counter different scenarios of financial distress effectively ~~without causing any significant adverse effect to the financial system~~. The assessment of plausibility of each recovery option set out in the recovery plan, shall take into account:

We have deleted the reference in Article 5 1 (b) as we believe this assessment criterion (with which we agree) does not address a plan's operability but rather how it would impact the wider financial system and should therefore be addressed in part b of this Article 5.

As we have suggested above the removal of references to specific scenarios (recommending instead that the competent authority should assure itself that scenario testing has been undertaken rather than requiring the identification of specific scenarios) we also suggest the removal of Article 5 1 (c):

~~c. whether the recovery options included in the recovery plan address the scenarios identified;~~

Similarly we detect some overlap between sub paragraphs g. and h. and suggest the following:

g. the extent and adequacy of the testing of recovery options and indicators which is carried out using the scenarios of financial distress;

~~h. the extent to which the recovery options and indicators are verified by testing carried out using scenarios of financial distress;~~

Whilst it is right to assess the impact of activating a recovery plan on the wider financial system we do not believe it would be appropriate to require the institution submitting the plan to revise it just because of a potential wider impact. We appreciate that the draft RTS does not require this and hope that such reasons would not be spuriously used as requiring changes to the recovery plan.

Question 5 *Could you describe what key elements the competent authority should assess when reviewing the matters stipulated in Article 5(3) letters a) to d)?*

We think that the assessment of the matters in Article 5 3 is best made by focussing on the top-down governance structures that ensure group wide plans are properly embedded. In particular competent authorities will want to focus the mechanisms by which early warning signals about a bank's capital, liquidity and risk profile are integrated, monitored and acted upon. This will involve an understanding of the bank's escalation mechanisms and how business as usual management switches to crisis management in order that the mitigating actions of the group recovery plan can be effectively deployed with the necessary level of flexibility.

Question 6 *Do you agree with our analysis of the impact of the proposals in this CP? If not, can you provide any evidence or data that would explain why you disagree or might further inform our analysis of the likely impacts of the proposals?*

Yes.

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