



Brussels, 20 August 2013

Position on the consultation paper of the European Banking Authority on "Draft Regulatory Technical Standards on the assessment of recovery plans under the draft directive establishing a framework for the recovery and resolution of credit institutions and investment firms" and on the consultation paper on "Draft Regulatory Technical Standards specifying the range of scenarios to be used in recovery plans under the draft directive establishing a framework for the recovery and resolution of credit institutions and investment firms"

The European Federation of Building Societies (EFBS) is pleased to use the opportunity to make comments on the consultation Paper on "Draft Regulatory Technical Standards on the assessment of recovery plans under the draft directive establishing a framework for the recovery and resolution of credit institutions and investment firms" and on the consultation paper "Draft Regulatory Technical Standards specifying the range of scenarios to be used in recovery plans under the draft directive establishing a framework for the recovery and resolution of credit institutions and investment firms".

The EFBS brings together credit institutions and institutions which promote and support the financing of home ownership. It pursues the aim, in a politically and economically converging Europe, of promoting the idea of the acquisition of home ownership. The concept of saving-for-home-ownership is based on the idea of making available to a group of savers, by pooling their savings, the necessary funds to finance home ownership within a shorter time than would have been possible for a saver acting individually. For this, the customers of the Bausparkassen conclude a saving-for-home-ownership agreement for the savings amount required. They thereby undertake to make regular savings deposits. Bausparkassen grant loans secured by residential property to finance home ownership as a bulk business. In addition to this Bausparkassen business in the stricter sense, Bausparkassen are also allowed to make investments, however only in particularly safe investment vehicles.

The EFBS welcomes the efforts undertaken on international and European level in order to secure globally active credit institutions in times of crisis against their financial failure by recovery measures or, respectively, when recovery measures reveal to be ineffective to apply resolution measures to the credit institution without endangering the financial sector or other financial institutions.

Yet, the EFBS opposes to the approach of the European Commission according to which the hold of a recovery plan and its regular update is mandatory for all credit institutions on the basis of on institutional and on group level. This approach does not reflect that the endangerment of the transmission of the problems in one bank to the system as a whole is not as imminent for every institution. A range of specialized credit institutions, such as the Bausparkassen, is not systemically relevant or operating on a cross-border level. In times of crisis they have proved, due to their business model, to be particularly resistant. For though the national Bausparkassen Acts provide for the restriction that Bausparkassen may only accept savings deposits and grant housing credit. Securities transactions, other retail banking (consumer credit, credit card business) or even payments may not be offered by Bausparkassen. In addition, proprietary commitments of the Bausparkassen on the capital market are subject to massive restrictions; for instance, the

Bausparkassen are permitted to invest only surplus collective funds in investments eligible for trusts. The background to this restriction is the protection of the building-for-home-loan savers and the collectivity against risky financial transactions by the Bausparkasse. Further, Bausparkassen are generally operating on regional level. Therefore, the risk of "contagion" of other financial institutions or the financial sector can be estimated as rather low. The numerous provisions and the interventions by competent authorities as foreseen in the proposal for a directive and the regulatory technical standards would, contrary to the initial intention of the EU law maker, overload and destabilize the Bausparkassen. In order to prevent negative impacts, the principle of proportionality should not only be respected in the directive but also in the concrete provisions of the regulatory technical standards for recovery plans which will be directly applicable in the Member states.

Also, the EFBS is of the opinion that the elaboration of technical standards on "Draft Regulatory Technical Standards on the assessment of recovery plans under the draft directive establishing a framework for the recovery and resolution of credit institutions and investment firms" and on "Draft Regulatory Technical Standards specifying the range of scenarios to be used in recovery plans under the draft directive establishing a framework for the recovery and resolution of credit institutions and investment firms" by the European Banking Authority is at this point of time too early. While the Financial Stability Board (FSB) is concentrating in its work on international level exclusively on systemically relevant financial institutions, regulators have not clearly determined in the EU law making process which financial institution shall be obliged to hold recovery and resolution plans and how detailed they should be. According to the report of the Committee of Economic and Monetary Affairs of the European Parliament of 20 May 2013 on the proposal for a directive establishing a framework for the recovery and resolution of credit institutions and investment firms it shall be mandatory for all credit institutions to hold a recovery plan. Yet, alleviations concerning the requirements of the recovery plan and the frequency of its update shall be applicable to various credit institutions. The decision shall depend on criteria such as the business model of a credit institution. According to the position of the Member states in the European Council, they shall be entitled to decide on the complete exemption of credit institutions from the obligation to hold a recovery plan and to regularly update it.

In this context, the EFBS states that in order to maintain the principle of proportionality during the testing of stress scenarios and in the content of recovery plans of credit institutions a precise knowledge of the business model by the relevant national authority is necessary. The same principle imposes itself to the decision on the application of a recovery or resolution measure. The EFBS rejects a transposition of the final decision on a resolution of a credit institution which is subject to the ECB supervision to the European Commission, as foreseen in the proposal for a regulation establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Bank Resolution Fund of 10 July 2013.

Moreover, the EFBS stipulates that, as provided by the guidance of the FSB Recovery and Resolution Planning for Systemically Important Financial Institutions on Recovery Triggers and Stress Scenarios of 16 July 2013, during the consultation of the senior management and the relevant authority about the decision on the application of a recovery measure, they should be given more leeway. The incidence of a trigger should not automatically entail a recovery measure, but leave space for a decision on an individual basis in order to respect particularities of the situation. By this means one could accommodate the circumstance that not all possible types of financial distress and the most effective remedies can be anticipated in the recovery plan.

An effective coordination between the senior management in the relevant institution and the competent national authority in order to commonly decide on a recovery measure requires a clear communication. The EFBS therefore advocates inserting clear and updated ways of communication in the recovery plans.

Finally, the EFBS would like to point out that the elaboration and review of stress scenarios entail financial and organizational efforts, especially for smaller credit institutions, which cannot be neglected. Many requirements of the technical standards emerge irrespectively of the complexity of the institution's business and will need to be beard by smaller institutions in the same manner as by larger institutions.