



**EBA Discussion paper on a template for recovery plans
(EBA/DP/2012/2)**

BNP PARIBAS CONTRIBUTION

Response sent by 15 June to: EBA
DP-2012-02@eba.europa.eu

BNP Paribas welcomes the opportunity to comment on the EBA discussion paper on a template for recovery plans, published on May 15, 2012. We have responded to this paper as it was issued, without incorporating elements from the EC proposal for a Crisis management directive, published during the comment period for this discussion paper. Certain elements of our response may therefore be subject to changes according to the evolution of the proposed directive.

GENERAL REMARKS

BNP Paribas supports the objective of creating a consistent international regime for the resolution of financial institutions without exposing the tax-payer to the risk of loss. The preparation of Recovery and Resolution Plans is an essential part of this regime, and therefore this EBA discussion paper on recovery plans is an important step forward towards this objective.

We would urge that consistency be at the heart of the actions of the EBA, and therefore that the greatest care be taken to ensure that the standards for recovery plans that will be published by EBA in the future be entirely aligned with the recommendations of the Financial Stability Board and with major international banking jurisdictions. Consistency will not only reduce the regulatory burden on banks, but also contribute effectively to global financial stability.

BNP Paribas considers that the two phases of recovery and resolution must be clearly distinguished in future legislation and regulation. Whilst the two are often associated, and rightly so, in the notion of RRP, it is essential to respect at all times the key distinction between the two; in recovery the management of the institution has operational control and responsibility for the actions of the bank, in resolution, control and responsibility pass to resolution authorities. This frontier must be respected. We find that in some instances in the Discussion paper, a certain ambiguity is present, as we point out in our detailed comments.



We would also encourage EBA to pay the greatest attention to the notion of confidentiality, which we consider to be of even greater importance for recovery plans than for resolution plans. The information contained in recovery is highly strategic, and the duty of confidentiality placed on those having access to these plans, and sanctions in case of breach, should be highly significant.

BNP Paribas also feels that it is essential that, in the case of large and diversified banking groups, the recovery plan be clearly placed in the group context. For as long as group management are responsible for the performance of the group, and this is the case both prior to and during recovery, the recovery plan should be documented, and indeed implemented, at a group level. One of the strengths of diversified financial groups is their ability to weather and overcome shocks in particular parts of their group, thus contributing to financial stability. This characteristic should be recognised in the regulatory approach to recovery planning. The cause of financial stability will not be furthered by the creation of a requirement for a plethora of recovery plans within a group, when one robust group level plan may well suffice.

These general remarks are in many instances more fully developed in our detailed responses on the following pages.

A handwritten signature in black ink, appearing to read 'Christian Lajoie', with a long horizontal stroke extending to the right.

Christian Lajoie

BNP Paribas SA

Head of Group Prudential Affairs



DETAILED RESPONSES

Q.1 Have you already drafted/approved a recovery plan or are you in the process of doing so? If so, please reply to the following questions referring to your experience

Yes, we have produced a recovery plan, which was approved by the relevant board committee, presented to the board of BNP Paribas, and delivered to ACP, our home supervisor, at the end of 2011.

Q.2 Is your recovery plan or would your future recovery plan be in line with the contents of the template and its underlying approach? Please mention the relevant differences, if there are any

The BNP Paribas recovery plan is consistent, in its underlying approach, with the spirit of the template. However, our Recovery plan is part of an overall RRP package, and some of the elements proposed in the template are, in our opinion, better associated with the Resolution part of the package, and others are far too detailed in the context of a Recovery plan.

Elements which are better associated with the Resolution elements of RRP, or which should figure in a global RRP introduction are :

Description of the group/institution (A General Overview part b, Page 7) Much of what is contained in this section is of limited relevance in the context of recovery action, in particular detailed mapping of legal entities and business lines, financial elements by legal entity. We do not see the relevance of a description of critical or systemically relevant functions within a recovery plan. These are matters for Resolution planning.

Elements which are far too detailed in the context of a recovery plan are :

Communication plan (section f page 12) ; whilst we have no doubts about the need to adequately communicate the implementation of recovery options, a detailed communication plan for each option , providing an assessment of the potential impact on the business and on financial stability in general, is excessive and if implemented, may generate reactions that are undesirable in a recovery context. The recovery plan should include a section dealing with communication, both internal and external, which should outline responsibilities for drawing up appropriate and proportionate communication at the time at which recovery actions are initiated.

Information necessary for authorities to assess the situation (end of part B, page 13) : there seems to be some confusion here between recovery and resolution, the information listed here may well be required by authorities immediately upon entry into resolution, but certainly no more frequently than is habitual when the institution is implementing recovery actions.



Q.3 Are there legal provisions and/or guidelines in place in your jurisdiction with regard to recovery plans and resolution plans? If so, are there any elements of this template which conflict with those provisions?

No, there are no formal legal provisions or guidelines in place in our home jurisdiction. Nonetheless, we have had multiple exchanges since early 2011 with our home supervisor concerning the preparation of our Recovery plan, and its content.

Q.4 What kind of legal implications and/or binding effects does the plan have in your jurisdictions, if any, and what should they be, in your opinion?

This question seems to us to be misguided. A recovery plan, as described in the consultation, is essentially made up of a menu of options for recovery, drafted and owned by management, who are responsible for its implementation when they judge such a course of action to be necessary. As is stated on page 5 of the discussion paper '*A key assumption is that neither the state nor central banks intervene to manage the crisis. The plan is therefore drafted and owned by the financial institution*'. We fully support this statement, which is part of the key distinction between recovery on the one hand, and resolution on the other.

We fail to see what elements of a recovery plan, beyond the obligation to produce one and keep it up to date, could be made legally binding. Recovery plans are built to deal with crises, which by definition are not perfectly predictable. It would therefore be illusory to seek to give any form of legally binding effect to a plan that is of necessity contingent in nature, and whose implementation cannot be legislated for in advance, as this will be dependant on the precise circumstances leading to its activation.

Q.5 Do you believe the draft recovery template to be sufficiently comprehensive and cover all the aspects relevant for the purpose of the recovery plan? If not, please specify what is missing.

As outlined in our answer to Question 2, we believe that some elements of the template are over-detailed for the needs of recovery planning, and should be dealt with under resolution planning.

We do not believe that any significant elements are missing.

Q.6 Should the recovery plan include scenarios and assumptions as possible points of reference for testing the various recovery options? What role should they play within the recovery plan and with respect to the possibility to consider per se the various triggers and negative impacts?

BNP Paribas agrees with much of the proposed template as regards scenarios. In particular we subscribe to the view that '*the role of the scenarios for the purpose of RRP's should not be over-*



estimated.....) (page 4), and that the aim of producing scenarios should be *' to define a set of scenarios under which the efficiency of the different recovery options will be assessed'*. (Page 10). In our view scenarios should remain relatively high-level and generic, and be used simply as a back-drop against which the suitability of various recovery options can be assessed in varying circumstances.

Any attempt to impose prescriptive and detailed scenarios is likely to lead to over-detailed and over-engineered recovery plans that may prove to be inapplicable when confronted with a reality that will be different from any detailed scenarios that have been imagined in advance. BNP Paribas does not believe that recovery scenarios should be linked to stress-testing exercises, as they are designed for a different purpose. Stress-test scenarios are designed to test the resistance of banks to adverse circumstances, whereas recovery plans are designed to provide a 'menu of options' to be implemented in extreme circumstances which could, if left to unfold unchecked, bring a bank to the brink of resolution. For the majority of banks, such circumstances are far beyond those of regulatory stress-tests, and the severity of stress required to bring each bank to this point will vary immensely between banks according to their respective business and geographical diversity, and their inherent financial strength.

We would draw the attention of the EBA to an internal contradiction in the template, where scenarios are described as being *'sufficiently likely to occur'* (page 11, section c)), and the recovery options used to recover from such scenarios are described as *' extraordinary in nature'* (page 11 section d). We would suggest that it is unhelpful for the general perception of the banking industry for scenarios requiring extraordinary measures to be described as likely to occur. It should be made clear that recovery planning is designed as an element of precaution for the most extreme circumstances, and is not considered to be likely to be implemented.

Q.7 How would/do you identify quantitative and qualitative recovery early warnings and triggers? What are the key metrics you would use to develop early warnings and triggers?

BNP Paribas has built, in the context of its recovery planning, an executive dashboard that is produced weekly and which seeks to provide an early warning of the need to consider the implementation of the recovery plan.

The dashboard contains some indicators drawn from existing corporate reports, each of which (with 2 exceptions) has 5 possible levels of alert. The dashboard is considered to be 'on alert' when a single indicator is on level 5 alert, or greater numbers are on lower levels of alert. This therefore caters for either a single extremely serious breach of one indicator, or an accumulation of numerous alerts of a lower level of severity.

Metrics used in the dashboard include both internal and external indicators covering solvency, liquidity, perception of the bank and the economic environment, plus an allowance for an 'expert call' to consider recovery.



It is essential to understand that there is no automatic trigger of recovery plan implementation when the dashboard as a whole is 'on alert'. The only automatic action is to convene a senior management meeting to consider whether the recovery plan should be implemented. The minutes of this meeting are to be communicated to the chairman of the board of directors. In reality, we consider it highly improbable that the dashboard would reach an 'on alert' status without the management of the bank already being fully aware of potential problems and having already commenced remedial action. However, the weekly production of the dashboard serves as a 'back-stop' to prevent any danger of forbearance or failure to recognise potential recovery conditions.

Q.8 What kind of corporate governance arrangements have you adopted or would you adopt for recovery planning? Please comment on differences to the template.

Following an initial project phase during which the Version 1 of the BNP Paribas RRP was produced, a permanent team has been put in place to ensure the update of the plan and its adaptation to emerging regulatory requirements. The team reports, through the head of Group Regulatory Affairs, to the COO of BNP Paribas.

The different business lines and functions of the group have been and are involved in the creation and updating of the Group RRP, using a common template developed by the RRP team.

The plan has been presented to the Internal Control, Risk Management and Compliance Committee of the Board.

There are no significant differences to the template apart from those that are covered in answers to other questions (see in particular question 14).

Q.9 How do/would you ensure the consistency between your group recovery plan and recovery plans drafted by your main entities? For this purpose, are you aware of any obstacles in the current legal framework?

BNP Paribas believes that the preparation of recovery plans at an individual entity level has little merit in the context of a diversified banking group, and that therefore the question of consistency should not arise. The essence of such a group is that its geographical spread and diversity of businesses gives it the ability to overcome severe problems in particular geographies or business lines. It is by essence the rôle of the holding company to allocate support and resources amongst its subsidiaries, and as such it is best placed both to document and maintain the recovery plan, and to implement it were this to be required.



Q.10 What range of recovery measures do you think should be envisaged in the template?

The possible range of recovery measures are adequately covered in the template, but authorities should beware of being overly prescriptive. Banks and banking groups differ in their legal structures, business lines, and funding structures, and will therefore have greater or lesser appetites for specific types of options.

Q.11 Have you got any remarks or concerns related to the confidential nature of the information provided in the recovery plan? If so, please elaborate.

Yes, the information contained in a recovery plan is highly confidential, in many ways more so than that contained in a resolution plan. A recovery plan effectively provides insight into the strategy of a firm, its willingness to dispose of certain assets or lines of business, and its preparedness to call upon shareholder support. Furthermore, the analysis of the separability of business lines selected as recovery options could be of considerable strategic interest to competitors. The internal sensitivity of this information should also not be underestimated.

The highly confidential nature of the information is also a major reason why Crisis Management Groups or Cross Border Stability Groups must include only a limited number of the most important jurisdictions for any institution, and why the authorities present should be exclusively those that are bound by a statutory duty of confidentiality.

Q.12 Should the plan include a ranking among the various recovery measures, differentiating between them with regard to possible scenarios and assumptions and taking into account the expected impact of each measure?

We would agree that the recovery plan can usefully include a summary table of the various recovery actions envisaged, showing their different impacts and suitability to the scenarios examined.

However, we see little value to a formal ranking or hierarchy, which could be erroneously interpreted as a 'game plan', and would give a spurious impression of precision to the plan, which should remain as a 'menu of possible options' and not a predetermined plan of action.

Q.13 How would you assess the credibility of a recovery plan? Please comment on your experience

BNP Paribas believes that the credibility of a recovery plan should be assessed by reference to the variety of options proposed, their geographical spread, their feasibility, and the likelihood that in aggregate their effect would be significant with regards to the proportion of group assets/liabilities that they represent.



Q.14 What kind of information arrangements have you put in place to ensure that the right information is available within a short time frame for decision-making in a stress situation?

BNP Paribas does not feel that the availability of information for decision-making is an issue specific to recovery situations. The correct management and supervision of financial institutions depends on accurate and timely information being available in all circumstances, and the assessment of the quality of management information is part of regular management and supervisory responsibilities.

Q.15 How frequent should interactions/iterations between the supervisor and the financial institution be? What role should the supervisor play?

This will clearly depend upon the size of the bank, and the aim should be to ensure that the supervisor has a close working knowledge of the bank, in order to be able to judge and challenge as appropriate an institution's recovery plan. In the case of BNP Paribas, interaction with our supervisor is pretty well continuous.

Q.16 The implementation of a recovery plan is likely to structurally modify the financial institution and its sources of revenues. Should a forward looking business plan, assuming the implementation of the recovery options, also be part of the recovery plan?

BNP Paribas does not see value in producing a forward looking business plan assuming the implementation of recovery options. The analysis of the plan should include an assessment of the impacts on revenues, on the balance sheet, on capital adequacy ratios, on RWA's and on liquidity for each individual option.

Assembling all these impacts as a business plan serves no useful purpose, as the plan is once again a menu of options, and it is unlikely that all options would be implemented in a short period of time.

Q.17 Please provide views on the impact, including your costs and benefits analysis, of the issues involved in the preparation of a recovery plan?

We are unable to provide specific cost analysis of the preparation of a recovery plan, particularly as regulatory requirements have not yet been clarified, in particular the need, or not, to create recovery plans at entity level, which would have a clearly detrimental effect on cost for no visible benefit to our group.



Q.18 Have you made, or do you plan, changes in the organisation to facilitate successful implementation of the recovery plan in the future?

The implications of recovery and resolution issues as a whole will undoubtedly be integrated into the procedures and decision-making systems of the bank.

However, EBA should bear in mind that the intent of banks is not to successfully implement their recovery plan, but to successfully manage their business and make a positive contribution to the real economy.

BNP Paribas does not deny the utility of robust recovery planning, nor the fact that recovery should be borne in mind when organisational changes are considered, but the bank does not intend to make recovery the focus of management or the driver of changes to the organisation.