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# EBA final draft Regulatory Technical Standards

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on the content of recovery plans under Article 5(10) of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms

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# 1. Executive summary

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The new Union-wide framework for crisis prevention, crisis management and resolution requires credit institutions and investment firms to plan in advance to strengthen their ability to restore financial and economic viability when they fall into situations of severe stress.

These draft regulatory technical standards (RTS) have been developed by the EBA pursuant to Article 5(10) of Directive 2014/59/EU and relate to the information to be contained in the individual recovery plan which institutions must draw up and maintain in the future. Pursuant to Article 7(5) and (6), a group recovery plan must include the same elements, recovery options and scenarios. Recovery plans should specify the arrangements which institutions or groups have in place and the measures that they would be adopt to take timely action to restore their long-term viability in the event of a material deterioration of in financial situations. Section A of the Annex to Directive 2014/59/EU sets out the information which should be included in the recovery plans. Pursuant to Article 4 of Directive 2014/59/EU and as a consequence of the principle of proportionality, the competent authorities have to determine the content and details of recovery plans, which may mean simplified obligations for some institutions. These RTS set forth the minimum content of recovery plans only for institutions that are not subject to simplified obligations. This minimum does not apply with regard to simplified obligations.

The draft RTS specify the essential items of information a recovery plan is expected to include and group them under five headings: (i) a summary of the recovery plan; (ii) information on governance; (iii) a strategic analysis; (iv) a communication plan and (v) a description of preparatory measures. Articles 4 to 8 of the RTS describe the content of each of these five items. Although the structure of the draft RTS presented does not follow the order of Section A of the Annex to Directive 2014/59/EU, each of the different elements of Section A is covered and specified in the draft RTS.

The required information on governance includes the identification of responsible persons and the escalation and decision-making process, as well as indicators which would trigger this process, all with a view to ensuring the timely implementation of an institution's recovery plan. The strategic analysis is vital for the assessment of the recovery options by the competent authority. It includes a description of the institution or group, its core business lines and critical functions, and of its internal and external interconnectedness resulting, for example, from its legal and financial structures or, significant exposures or services which are provided by or for other financial market participants. In addition, the strategic analysis must specify recovery options designed to respond to financial stress scenarios, including capital and liquidity actions, and measures to ensure access to contingency funding. The impact and feasibility of the options have to be assessed in the plan, with reference to financial stress scenarios. Stress testing is an important element of the assessment, and appropriate scenarios are specified separately by the EBA guidelines in accordance with the mandate in Article 5(7) of Directive 2014/59/EU. The Communication and Disclosure Plan covers communication within the institution or group and external



communication with shareholders and other investors, the competent authorities and general public. Recovery planning is construed as an ongoing process reflecting the changing profile of an institution or group. To facilitate the implementation of plans and to remove impediments in this regard, a plan must specify preparatory measures and a timeline for completing them.

## 2. Background and rationale

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These draft RTS will be part of the single rulebook strengthening regulatory harmonisation in Europe and are to be read in the context of further technical standards and guidelines on the assessment of recovery plans and on scenarios to be used in recovery plans, as well as in the wider context of the recovery and resolution planning provided for in Directive 2014/59/EU. The requirement for recovery plans aims to avert the failure of the institution or group and its wind-down in normal insolvency proceedings, or, the use of resolution tools.

The draft RTS determine and further specify the minimum elements that must be included in the recovery plan of any institution that is subject to regular planning requirements. However, pursuant to Article 4 of Directive 2014/59/EU, competent authorities may determine that an institution should be subject to simplified obligations when the impact of the failure of that institution would be less significant, in accordance with the principle of proportionality and based on the objectives of the Directive. Simplified obligations may apply to the contents and details of the information required in the institution's recovery plan. In this case the recovery plan would include some but not necessarily all elements specified by the draft RTS.

Pursuant to its tasks under Article 25(1) of the EBA Regulation, on 15 May 2012, the EBA published a discussion paper on a template for recovery plans aimed at presenting its initial views and encouraging discussion among stakeholders on what the key elements of a recovery plan should be. Altogether the EBA received 25 responses to the discussion paper (of which five were not published on the EBA website at the request of the respondents), which, overall, provided positive feedback on the structure and content of the template. In addition, the draft RTS were published for consultation on 11 March 2013. As a result of the consultation, several clarifications could be made, for example relating to the application for institutions that are subject to simplified planning obligations.

At the international level the initiatives on recovery and resolution planning are carried out under the auspices of the Financial Stability Board (FSB), which in its standard 'Key Attributes of Effective Resolution Regimes for Financial Institutions' identifies the essential elements of recovery and resolution plans and recommends that recovery and resolution plans be in place in the course of the year 2013 at least for any financial institution that could be systemically significant or critical if it fails. In July 2013, the FSB published the paper 'Guidance on Recovery Triggers and Stress Scenarios'. The draft RTS take into account the FSB Key Attributes of Effective Resolution Regimes for Financial Institutions and the further FSB papers in this context, the work carried out for the EBA discussion paper and the responses received on the EBA discussion paper and during the consultation. The draft RTS further build on the existing regulatory developments in the area of recovery plans stipulating the key elements and essential issues that should be addressed in a recovery plan.

Drafting a recovery plan is incumbent upon institutions or EU parent undertakings and is to be undertaken prior to a crisis in order to assess the potential options that an institution or group could itself implement to restore financial strength and viability should the institution or group come under severe stress. Recovery plans must be based on the assumption that extraordinary public financial support would not be provided and this must be reflected in their content. Institutions or EU parent undertakings must draft plans which will be assessed by the relevant competent authority or authorities. The objective of a recovery plan is not to forecast the factors that could prompt a crisis, but rather to identify the options that might be available to counter both an idiosyncratic and a system-wide crisis and to assess whether these options are robust enough and sufficiently varied to cope with a wide range of shocks of different natures. This should be echoed in the content of the plans. In a crisis situation, a recovery plan should serve as a guide to the recovery of a distressed institution. A recovery plan should reflect the fact that the most appropriate of the alternative recovery options identified in the recovery plan should be implemented, i.e., the one which would result in the most likely prospect of recovery after implementation. Selection of the recovery options therefore needs a case-by-case analysis of potential stress situations by the institution's management. The RTS take this into account when defining and structuring the minimum content. Recovery indicators are one of the core elements of the plan. To cater for different types of crises, the RTS stress the concept that indicators do not automatically activate a specific recovery option or, more generally, prompt an automated framework under which a particular recovery option has to be implemented in accordance with predetermined procedural requirements. Instead, indicators would trigger an escalation process within the affected institution, which would involve an examination of the best way to address a crisis situation. To ensure early management awareness of the and embed recovery planning into the ongoing business of an institution, the benchmarks used in regular risk management should be also applied as 'early warning signals', which complement the indicators, if these existing benchmarks are useful in the context of recovery planning.

In addition, recovery options should reflect the individual profile of an institution and consider the internal preconditions and external effects of the recovery options. The key components of a recovery plan are, therefore, the description of the governance, the strategic analysis, the communication plan, and preparatory measures. The description of the governance should allow for proper development, approval and implementation of the planning process in the institution's ongoing business on the one hand, and on the other hand for a timely decision on and implementation of recovery options where required in a stress situation. The strategic analysis should identify the institution's core businesses as well as critical functions, map them according to the institution's structure and their allocation to entities material to its business, and specify the key actions to be taken in relation to them and the remaining components of the institution in a stress situation. To this end the recovery plan should include measures to reduce the risk profile of an institution, react to liquidity shocks and reinforce capital as well as strategic options, such as divestiture of business lines and restructuring of liabilities. The communication plan should aim to ensure effective internal and external communication on issues related to implementing the recovery plan. In addition, the recovery plan should include an analysis of preparatory measures



that in a pre-recovery phase could possibly increase the effectiveness of the recovery options identified.

With a view to practical supervisory experience in assessing existing and future recovery plans it is probable that further regulatory developments in this area will follow with the aim of strengthening regulatory harmonisation in Europe and thus enhancing the effectiveness of crisis prevention. This should be reflected in a review of these RTS.

### 3. Draft regulatory technical standards on the contents of recovery plans

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**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 information to be contained in recovery plans**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to the Directive of the European Parliament and of the Council of 15 May 2014 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 1093/2010 of the European Parliament and of the Council<sup>1</sup>, and in particular Article 5(10) thereof,

Whereas:

- (1) Uniform rules concerning the minimum information to be included in recovery plans should take into account, though not prejudice the ability for competent authorities to determine simplified obligations in relation to the contents and details of recovery plans in accordance with Article 4 of Directive 2014/59/EU.
- (2) The elements of information specified to be included in recovery plans should be appropriate for recovery plans drawn up by institutions which are not part of a group subject to consolidated supervision pursuant to Article 111 and 112 of Directive 2013/36/EU of the European Parliament and of the Council<sup>2</sup>, or in case of Article 7(2) of Directive 2014/59/EU (an ‘individual recovery plan’) and, in accordance with Article 7(5) and (6) of Directive 2014/59/EU, for group recovery plans, where applicable.

<sup>1</sup> OJ L 173, 12.6.2014, p.190.

<sup>2</sup> Directive 2013/36/EU of the European Parliament and of the 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, 27.6.2013, p. 1).





- (3) To facilitate the organisation of the recovery plan, the information requirements should be grouped under five headings, namely (i) a summary of the recovery plan, (ii) a discussion of the governance (iii) a strategic analysis, (iv) a communication plan, and (v) an analysis of preparatory measures. In order to ensure a consistent approach across institutions and groups, recovery plans should contain at least these five items, but it is not necessary to require recovery plans to be structured in the same order.
- (4) In order to ensure that the plan can effectively be implemented in due time if necessary, it is essential to build the plan on a sound governance structure. The recovery plan should therefore contain a description of the specific governance arrangements relating to the plan. In particular, the plan should set out how it was developed, by whom it was approved, and how it is integrated in the overall corporate governance of the institution or the group. Where relevant, the measures taken to ensure consistency between an individual recovery plan of a subsidiary, if applicable, and the group recovery plan should be described.
- (5) As it is crucial for the assessment of the feasibility of the recovery options, the recovery plan should contain detailed information on the decision-making process with regard to the activation of the recovery plan as an essential element of the governance structure, based on an escalation process using indicators within the meaning of Article 9 of Directive 2014/59/EU: Since each crisis is different, indicators do not automatically activate a specific recovery option or, more generally, prompt an automated framework under which a particular recovery option has to be implemented in accordance with predetermined procedural requirements. Rather, indicators should be used to indicate that an escalation process should be started, which will involve analysis as regards the best way to address a crisis situation. Before these indicators are met, data and benchmarks used in the regular risk management should be also applied to inform the institution or group about the risk of deterioration of its financial situation and of the indicators being triggered. While such early warning signals do not amount to indicators and as such do not indicate entry into the recovery phase or require escalation outside the business-as-usual processes, they help ensuring consistency between the institution's regular risk management and the monitoring of the indicators. The recovery plan should therefore contain a description of how suitable elements of the institution's risk management are connected with the indicators.
- (6) The provisions on the strategic analysis should take into account international standards for recovery plans such as the Financial Stability Board Key Attributes of Effective Resolution regimes for Financial Institutions. According to this standard the strategic analysis should identify the institution's essential and systemically important functions and set out the key steps to maintaining them in recovery scenarios. Accordingly, the strategic analysis should comprise two parts. The first part of the strategic analysis should describe the institution or the group and its core business lines and critical functions. The description of the institution or of the group should provide a general overview of the institution or of the group and of its activities, as well as a detailed description of its core business lines and critical functions. In order to facilitate the assessment of recovery options such as

divestments and sales of business lines, it is important to identify the legal entities in which core business lines and critical functions are located, as well as to analyse intra-group interconnectedness. In accordance with Article 6(1) and (2) of Directive 2014/59/EU institutions are required to demonstrate to the satisfaction of the competent authority that the recovery plan is reasonably likely to be implemented without causing any significant adverse effect on the financial system. In addition, Article 6(2) of Directive 2014/59/EU requires competent authorities to evaluate the extent to which the recovery plan or specific options within it could be implemented without causing any significant adverse effect on the financial system. Recovery plans should therefore contain a description of external interconnectedness.

- (7) The second part of the strategic analysis should consist of the identification and assessment of possible recovery options. Recovery options available to the institution or the group should initially be described without reference to a specific scenario of financial stress. This will enhance general crisis-preparedness and assist the institution or the group in reacting flexibly to crisis. The strategic analysis should then set out how recovery options have been tested against specific scenarios of financial stress in order to tentatively assess which recovery options would be efficient in each of these scenarios, thereby providing a practical test for the efficiency of recovery options and for the adequacy of indicators. Recovery options should include but not be limited to measures which could be taken by the institution where the conditions for early intervention under Article 27 of Directive 2014/59/EU are met.
- (8) Communication of the recovery plan is a key aspect of its effective implementation and of avoiding adverse effects on the financial system. The recovery plan should therefore also contain a communication and disclosure plan to address both internal communication to relevant internal bodies and the institution or group's staff, and external communication.
- (9) The recovery plan may imply changes in the organisation either to facilitate the update of the plan and its implementation in the future, to monitor indicators, or because the process has identified some impediments complicating the implementation of recovery options. These preparatory and follow-up actions to be taken by the institution or the group should be described in the recovery plan in order to facilitate effective assessment of whether its implementation is reasonably likely, and to facilitate monitoring of its implementation by both the institution or group and by competent authorities.
- (10) EBA should review this Regulation in the light of further regulatory developments in this area and the practical experience of competent authorities in assessing recovery plans with the aim of strengthening regulatory harmonisation in the Union and enhancing the effectiveness of crisis prevention.
- (11) This Regulation is based on the draft regulatory technical standards submitted by the European Supervisory Authority (European Banking Authority) ("EBA") to the Commission.



- (12) EBA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits, in accordance with Article 15 of Regulation (EU) No°1093/2010 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 Council<sup>3</sup>,

HAS ADOPTED THIS REGULATION:

*Article 1*  
*Subject matter*

This Regulation further specifies, without prejudice to any simplified obligations determined in accordance with Article 4 of Directive 2014/59/EU, the information to be contained in an individual recovery plan and, in accordance with Article 7(5) and (6) of that Directive, in a group recovery plan.

*Article 2*  
*Definitions*

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

- (1) ‘individual recovery plan’ means a recovery plan drawn up by an institution that is not part of a group subject to consolidated supervision pursuant to Article 111 and 112 of Directive 2013/36/EU in accordance with Article 5(1) of Directive 2014/59/EU or by a subsidiary of an EU parent undertaking in accordance with Article 7(2) of that Directive 2014/59/EU;
- (2) ‘group recovery plan’ means a recovery plan drawn up by an EU parent undertaking in accordance with Article 7(1) of Directive 2014/59/EU;
- (3) ‘recovery plan’ means an individual recovery plan or a group recovery plan;
- (4) ‘recovery option’ means a set of one or more management actions or strategies to be taken by the entity or entities considered in the recovery plan designed to maintain or restore financial soundness in a situation of financial stress;
- (5) ‘indicator’ means an indicator within the meaning of Article 9 of Directive 2014/59/EU;
- (6) ‘material change’ means any change which could impact the ability of an institution or of an EU parent undertaking or one or more of its subsidiaries to implement a recovery plan or to implement one or more recovery options contained in the recovery plan;

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<sup>3</sup> 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).

*Article 3*  
*Information to be included in a recovery plan*

A recovery plan shall include the following items:

- (a) a summary of the key elements of the recovery plan, in accordance with Article 4;
- (b) information on governance, in accordance with Article 5;
- (c) a strategic analysis, in accordance with Article 6;
- (d) a communication and disclosure plan, in accordance with Article 7;
- (e) an analysis of preparatory measures, in accordance with Article 8.

*Article 4*  
*Summary of the recovery plan*

The summary of the key elements of the recovery plan shall comprise the following information:

- (a) a summary of the recovery plan's information on governance;
- (b) a summary of the recovery plan's strategic analysis, including a summary of overall recovery capacity as described in point (f) of Article 6(5);
- (c) a summary of any material changes to the institution, group or recovery plan since the previous version of the recovery plan submitted to the competent authority;
- (d) a summary of the recovery plan's communication and disclosure plan;
- (e) a summary of the preparatory measures set out in the recovery plan.

*Article 5*  
*Governance*

The information on governance shall include a detailed description of the following matters:

- (a) how the recovery plan was developed, including:
  - (i) the role and function of persons responsible for preparing, implementing and updating each section of the plan;
  - (ii) the identity of the person who has overall responsibility for keeping the recovery plan up-to-date and a description of the process in case the recovery plan needs to be updated to respond to material changes affecting the institution or group or their environment;
  - (iii) a description of how the plan is integrated in the corporate governance of the institution or group and in the overall risk management framework;
  - (iv) if the considered entity is part of a group, a description of the measures and arrangements taken within the group to ensure the coordination and consistency of recovery options at the level of the group and of individual subsidiaries;



- (b) the policies and procedures governing the approval of the recovery plan, including:
  - (i) whether the recovery plan has been reviewed by an internal audit function, external auditor or risk committee;
  - (ii) confirmation that the recovery plan has been assessed and approved by the management body of the institution or EU parent undertaking responsible for submitting the plan;
- (c) the conditions and procedures necessary to ensure the timely implementation of recovery options, including:
  - (i) a description of the internal escalation and decision-making process that applies when the indicators have been met to consider and determine which recovery option may need to be applied in reaction to the situation of financial stress that has materialised, including:
    - the role and function of persons involved in this process, including a description of their responsibilities. If a committee is involved in the process, the role, the responsibilities and function of committee members shall be included;
    - the procedures that need to be followed;
    - the timeframe for the decision on the taking of recovery options and when and how the relevant competent authorities will be informed about the fact that the indicators have been met;
  - (ii) a detailed description of the indicators, reflecting possible vulnerabilities, weaknesses or threats to, as a minimum, the capital position, liquidity situation, profitability and risk profile of the entity or entities covered in the recovery plan;
- (d) the consistency with the general risk management framework of the institution or group, including a description of those relevant benchmarks (early warning signals), which are used as part of the institution's or group's regular internal risk management process, where these relevant benchmarks are useful to inform the management that the indicators could potentially be reached;
- (e) management information systems, including a description of how it will be ensured that the information necessary for the implementation of recovery options is available for decision-making in stressed conditions in a reliable and timely way.

*Article 6*  
*Strategic analysis*

1. The strategic analysis shall identify core business lines and critical functions and set out the key steps to maintaining those core business lines and critical functions in a situation of financial stress.
2. The strategic analysis shall include:



- (a) a description of the entity or entities covered by the recovery plan;
  - (b) recovery options.
3. The description of the entity or entities covered by the recovery plan shall comprise the following information:
- (a) a general description of the entity or entities covered by the recovery plan, including:
    - (i) a description of their overall global business and risk strategy;
    - (ii) their business model and business plan, including a list of the main jurisdictions in which they are active, including through a material legal entity or branch;
    - (iii) their core business lines and critical functions;
    - (iv) a description of the process and metrics for identifying the core business lines and critical functions;
  - (b) a mapping of core business lines and critical functions to material legal entities and branches. A material legal entity or branch within the meaning of this paragraph 3 is a legal entity or branch that:
    - (i) substantially contributes to the profit of the entity or entities covered by the recovery plan, to their funding, or holds an important share of its assets, liabilities or capital;
    - (ii) performs key commercial activities;
    - (iii) centrally performs key operational, risk or administrative functions;
    - (iv) bears substantial risks that could, in a worst-case scenario, jeopardize the viability of the institution or group;
    - (v) could not be disposed of or liquidated without likely triggering a major risk for the institution or group as a whole; or
    - (vi) is important for the financial stability of at least one of the Member States in which it has its registered office or operates;
  - (c) a detailed description of the legal and financial structures of the entity or entities covered by the plan. This shall include a description of intra-group interconnectedness with respect to any material legal entities or branches, including in particular a description of the following matters:
    - (i) all existing material intra-group exposures and funding relationships, capital flows within the entity or entities covered by the recovery plan, intra-group guarantees that are in place and intra-group guarantees that are expected to be in place when recovery action is required;
    - (ii) legal interconnectedness, which shall cover material legally binding agreements between entities of a group including, for example, the



- existence of domination agreements and profit and loss transfer agreements;
- (iii) operational interconnectedness, which concerns functions that are centralised in one legal entity or branch and are important for the functioning of other legal entities, branches or the group, in particular centralised information technology functions, treasury functions, risk functions or administrative functions;
  - (iv) a description of any existing intra-group financial support agreements concluded in accordance with Article 19 of Directive 2014/59/EU including the parties to the agreement, the form of the financial support and the conditions associated with the provision of the financial support;
- (d) a description of external interconnectedness including:
- (i) a description of significant exposures and liabilities to main counterparties;
  - (ii) a description of significant financial products and services which are provided by the entity or entities covered by the recovery plan to other financial market participants;
  - (iii) a description of significant services which third parties provide to the entity or entities covered by the recovery plan.
4. The section on recovery options shall set out a range of recovery options designed to respond to financial stress scenarios and which could reasonably be expected to contribute to maintaining or restoring the viability and financial position of the entities covered by the recovery plan. The recovery options shall be described in a way that enables the competent authority to assess the impact and feasibility of each recovery option. Recovery options shall include measures which are extraordinary in nature as well as measures that could also be taken in the course of the normal business of the entity or entities covered by the recovery plan. Recovery options shall not be excluded for the sole reason that they would require a change to the current nature of the business of that entity or those entities.
5. The section on recovery options shall include the following information and analyses:
- (a) a list and description of each recovery option;
  - (b) to the extent that the recovery options do not include each of the following actions, arrangements or measures, a demonstration that those actions, arrangements or measures have been considered:
    - (i) a range of capital and liquidity actions required to maintain or restore the viability and financial position of the entity or entities covered by the recovery plan which have as their primary aim ensuring the viability of critical functions and core business lines;
    - (ii) arrangements and measures the primary aim of which is to conserve or restore the institution's own funds or the group's consolidated own



- funds through external recapitalisations and internal measures to improve the capital position of the entity or entities covered by the recovery plan;
- (iii) arrangements and measures to ensure that the entity or entities covered by the recovery plan have adequate access to contingency funding sources to ensure that it can carry on its operations and meet its obligations as they fall due; these measures shall include external measures and, where appropriate, measures that aim at reorganising the available liquidity within the group. The contingency funding sources shall include potential liquidity sources, an assessment of available collateral and an assessment of the possibility to transfer liquidity across group entities and business lines;
  - (iv) arrangements and measures to reduce risk and leverage, or to restructure business lines including, where appropriate, an analysis of possible material divestment of assets, legal entities, or business lines;
  - (v) arrangements and measures the primary aim of which is to achieve a voluntary restructuring of liabilities, without triggering an event of default, termination, downgrade or similar;
- (c) an impact assessment of each recovery option, which shall include:
- (i) an financial and operational impact assessment which sets out the expected impact on solvency, liquidity, funding positions, profitability and operations of the entity or entities covered by the recovery plan. Where relevant, the assessment shall clearly identify the different entities of the group which may be affected by the option or involved in its implementation;
  - (ii) an assessment of external impact and systemic consequences which sets out the expected impact on critical functions performed by the entity or entities covered by the recovery plan and the impact on shareholders, on customers, on counterparties and, where applicable, on the rest of the group;
  - (iii) the valuation assumptions and all other assumptions made for the purpose of the assessments in points (i) and (ii) including on the marketability of assets or the behaviour of other financial institutions. In particular, the impact assessment shall include a detailed description of the processes for determining the value and marketability of the core business lines, operations and assets of the entity or entities to which the recovery option relates;
- (d) a feasibility assessment of each recovery option, which shall include:
- (i) an assessment of the risk associated with the recovery option, drawing on any experience of executing the recovery option or an equivalent measure;





- (ii) a detailed analysis and description of any material impediment to the effective and timely execution of the plan and a description of whether and how such impediments could be overcome. For this purpose, a material impediment is any factor that could potentially negatively affect the timely execution of the recovery option including, in particular, legal, operational, business, financial, and reputational risks such as any risk of a credit rating downgrade;
- (iii) where applicable, an analysis of potential impediments to the effective implementation of each recovery option which result from the structure of the group or of intra-group arrangements, including whether there are substantial practical or legal impediments to the prompt transfer of own funds or the repayment of liabilities or assets within the group;
- (iv) solutions to the potential impediments identified under points (ii) and (iii);
- (v) an assessment of how the continuity of operations will be ensured when implementing each recovery option. This assessment shall include an analysis of internal operations (for example, information technology systems, suppliers and HR operations) and of the access of the entity or entities covered by the recovery plan to market infrastructure (for example, clearing and settlement facilities and payment systems). In particular, the assessment of operational contingency shall take into account:
  - any arrangements and measures necessary to maintain continuous access to relevant financial markets infrastructure;
  - any arrangements and measures necessary to maintain the continuous functioning of the operational processes of the entity or entities covered by the recovery plan, including infrastructure and IT services;
- (e) an assessment of the expected timeframe for the implementation and effectiveness of each recovery option;
- (f) an assessment of the effectiveness of recovery options and adequacy of indicators in a range of scenarios of financial stress which assesses the impact of each of these scenarios on the entities covered by the recovery plan, in particular on their capital, liquidity, profitability, risk profile and operations. The assessment shall identify which recovery options could be appropriate in a specific scenario, the potential impact of the recovery options, their feasibility, including the potential impediments to their implementation, and the timeframe required for their implementation. On the basis of this information, the assessment shall describe the overall recovery capacity of the entity or entities covered by the recovery plan, being the extent to which the recovery options allow that entity or those entities to recover in a range of scenarios of severe macroeconomic and financial stress.



6. Where information listed under paragraph 3 of this Article has been submitted to resolution authorities pursuant to Article 11 of Directive 2014/59/EU, competent authorities may choose to accept cross references to that information as sufficient for meeting the requirement in that paragraph 3, if they do not compromise the completeness and quality of the recovery plan, as required by the Regular Technical Standard on the assessment of recovery plans under Article 6(8) of Directive 2014/59/EU.

#### *Article 7*

##### *Communication and disclosure plan*

1. The communication and disclosure plan shall be a detailed plan which covers the following matters:
  - (a) internal communication, in particular to staff, works councils or other staff representatives;
  - (b) external communication, in particular to shareholders and other investors, competent authorities, counterparties, financial markets, financial market infrastructure, depositors and the public generally, as appropriate;
  - (c) effective proposals for managing any potential negative market reactions.
2. A recovery plan shall include an analysis of how the communication and disclosure plan would be implemented when one or more of arrangements or measures set out in the recovery plan are implemented.
3. The communication and disclosure plan shall adequately consider any specific communication needs of individual recovery options.

#### *Article 8*

##### *Preparatory measures*

A recovery plan shall include an analysis of any preparatory measures that the entity or entities covered by the recovery plan have taken or which are necessary to facilitate the implementation of the recovery plan or to improve its effectiveness together for a timeline for implementing those measures. Such preparatory measures shall include any measures necessary to overcome impediments to the effective implementation of recovery options which have been identified in the recovery plan.

#### *Article 9*

##### *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*  
[...]

## 4. Accompanying documents

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### 4.1 Draft cost-benefit analysis / impact assessment

#### Introduction

This analysis outlines the assessment of the impact of the draft RTS concerning the information to be contained in recovery plans. The development of the draft RTS stems from the requirement presented in Article 5(10) of Directive 2014/59/EU.

Article 10(1) of Regulation (EU) No 1093/2010 of the European Parliament and of the Council (the EBA Regulation) provides that when any draft RTS developed by the EBA are submitted to the Commission for adoption, they should be accompanied by an analysis of ‘the potential related costs and benefits’. This analysis should provide an overview of the findings regarding the problem to be dealt with, the solutions proposed and the potential impact of these options.

#### Problem definition

Issues addressed by the EU framework for bank recovery

As documented in the Commission’s impact assessment in its proposal for Directive 2014/59/EU, during the financial crisis, many national authorities did not have adequate tools and powers to intervene early to prevent the failure of credit institutions and investment firms. Tools such as preparatory steps and plans to minimise the risks of potential problems, or powers to arrest an institution's deteriorating situation at an early stage may have been useful in preventing some of the failures that occurred. The lack of resolution planning also made decisions to bail out several banks in Member States increasingly likely. Authorities not only lacked adequate tools to assist the institutions, they were also not prepared to resolve complex entities in a short period of time (due to the lack of information regarding their organisation), which is crucial in bank crisis situations. For this reason, authorities were left with no choice other than to use unprecedented levels of central bank liquidity and government support to keep institutions running.

Although certain European authorities have tools available to intervene early in banking crises, the tools are different. Many authorities currently have no tools. The diverging approaches to tools and powers are likely to deliver sub-optimal results at EU level. Besides, differences and gaps, including legislative differences between Member States and/or lack of a legislative/institutional basis in some countries, have the potential to complicate and even hinder the efficient cross-border handling of a banking crisis.



Directive 2014/59/EU stipulates that credit institutions and investment firms prepare recovery plans in which they specify the arrangements they have in place or the measures that they themselves would adopt to take early action to restore their long-term viability in the event of a material deterioration due to a situation of severe stress. Supervisors need to assess recovery plans and review the extent to which they satisfy the requirements of Directive 2014/59/EU.

Issues addressed by the draft RTS and objectives

The EBA is mandated to specify in the draft RTS the information that recovery plans must contain according to Section A of the Annex to Directive 2014/59/EU. This is to avoid national competent authorities creating substantially divergent information requirements, which may create uncertainty regarding the effectiveness of recovery plans in tackling problems detected early by national supervisors to facilitate the exchange of information and to propose an appropriate set of recovery options.

The RTS will contribute to realising the objectives of the Directive of increasing preparedness of institutions for crisis situations and ensuring that there is a common minimum standard for information to be included in recovery plans across the single market.

## Impact of the proposal

Costs

The costs of producing and assessing recovery plans are mainly driven by the requirements incorporated in Directive 2014/59/EU itself, including the costs related to the assessment of recovery plans, and are not relevant for this impact assessment.

The draft RTS specify only the information that must be contained in a recovery plan. As a result, these RTS will generate additional compliance costs within those Member States where less detailed recovery plans than those proposed by the RTS would have been required. Such costs may concern both competent authorities and institutions. They may be driven for instance by the need to change some of the IT or system frameworks, to train existing personnel or hire additional staff. However, these effects are mitigated by Article 4 of Directive 2014/59/EU, pursuant to which competent authorities may determine simplified obligations to be fulfilled by less significant institutions.

In several Member States, recovery plans are already being drafted on the basis of specific mandatory national rules or due to the application of the FSB principles for recovery and resolution planning to some of their institutions. As the content of these recovery plans meets the minimum requirements proposed in most cases, these draft RTS are likely to generate only minimal additional costs for the institutions already producing such plans.

Monitoring the preparedness of an institution to cope with major disruptions is an important part of risk management. Therefore, as part of their risk management framework, many institutions



should already have implemented some of the processes and IT systems necessary for drawing up recovery plans, which should limit the additional costs connected with the preparation of recovery plans in order to meet the proposed requirements of these draft RTS.

#### Benefits

By specifying the information that recovery plans should contain, these RTS will ensure that institutions use similar data and practices when drawing up their recovery plans. The RTS will ensure the existence of common minimum standards, for the benefit of the proper functioning of the single market, regarding the information to be included in the recovery plans of institutions established in the EU.

### Proportionality of the proposal

When developing the requirements proposed by these RTS, the EBA took into account the proportionality of its proposal with regard to institutions and other stakeholders. The requirements laid down on the content of the recovery plan will depend on many factors (for instance the nature of the businesses, their size or interconnectedness to other institutions on funding conditions or on the economy in general). In general, the greater the size, complexity and interconnectedness of an institution (or group) with other institutions, the more stringent the requirements for its recovery plan. A small local credit institution that only conducts retail business may submit a less complex set of information, and it is more likely that its failure would be easier to resolve and that payments under the deposit guarantee scheme would not have any systemic consequence.

These draft RTS cover only recovery plans that are not subject to simplified obligations as described in Article 4 of Directive 2014/59/EU. The competent authorities are empowered to apply a set of simplified obligations taking into account factors like type of business, size or interconnectedness.

The EBA published a discussion paper in May 2012 presenting a template for recovery plans which was taken into consideration in the process of the development of these draft RTS. The draft RTS were published for consultation on 11 March 2013. Respondents to both consultations have not provided sufficient evidence to indicate that the requirements proposed for the recovery plan in general would not be proportionate compared with the potentially negative impact that the failure of an institution could have, due to the nature of its business, its size or its interconnectedness to other institutions or to the financial system in general. In certain details comments have been incorporated to facilitate the implementation for institutions.



## 4.2 Feedback on the public consultation

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

The consultation period lasted for three months and ended on 11 June 2014. The EBA received 23 responses, of which 22 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 these cases, the comments and the EBA analysis are included in the section of this paper where the EBA considers them to be most appropriate.

Changes to the draft RTS 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:

#### Proportionality

1. Some respondents remarked that the technical standards were tailored to institutions of systemic importance for financial markets. As Article 1 of the draft RTS specifies minimum requirements, they felt that the principle of proportionality of Article 4 of Directive 2014/59/EU was not sufficiently reflected in the draft RTS.

#### EBA response:

The RTS specify rules concerning the information to be included in the recovery plans of institutions which are not subject to simplified obligations as described in Article 4 of Directive 2014/59/EU. The RTS describe the 'minimum' requirements pursuant to Article 5(5) of Directive 2014/59/EU. Member States may require that additional information be included in recovery plans, which does not prejudice the application of simplified obligations. This has been clarified in Article 1 of the RTS.

#### Strategic analysis

2. A number of respondents expressed the view that the **strategic analysis contained in Article 6(3)** should be more properly situated in the resolution plan. Some respondents were particularly opposed to identifying **critical functions** in recovery plans as this should rather be left



for the resolution plan. The focus of the recovery plan should be on the options for the recovery of institutions rather than the maintenance of critical functions.

**EBA response:**

The first part of the strategic analysis specified in Article 6(3) is necessary in order **to facilitate the assessment of recovery options** such as divestments and sales of business lines. For this purpose it is important to identify the legal entities in which core business lines and critical functions are located, as well as to analyse intra-group interconnectedness. Item 7 of Annex A of Directive 2014/59/EU explicitly states that critical functions should be identified in the recovery plan.

**Scenarios of financial stress**

3. Some respondents suggested that generic scenarios of financial stress should be analysed instead of specific scenarios because the relevant economic environment in a recovery situation is difficult or virtually impossible to predict. One respondent expressed the view that recovery plans should not contain pre-planning for particular supervisor-defined scenarios that are unlikely to reflect the actual scenarios that institutions would face.

**EBA response:**

Scenario analysis is also intended to test the diversity and effectiveness of recovery options in a quantitative way. More detail on this will be given in the EBA guidelines on scenarios (Article 5(7) of Directive 2014/59/EU). Scenarios should present a practice test for the effectiveness of recovery options and the calibration of indicators. Generic scenarios would not be helpful for this purpose.

**Disclosure of recovery plans**

4. Many respondents were concerned that institutions were required to disclose to the public the content of their recovery plans ex ante. Several respondents thought that there should not be any public disclosure of trigger breach or public disclosure that an institution has activated its recovery plan.

**EBA response:**

Article 7(1) of the guidelines does not intend any ex ante communication of any part of the plan. The communication plan should deal with adequate communication of the implementation of recovery options as they take place.





## Summary of responses to the consultation and the EBA's analysis

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
<b>General comments</b>			
Confidentiality of recovery plans	A number of respondents voiced concerns about whether confidentiality of recovery plans within authorities and colleges was ensured. Confidentiality is deemed important due to the high degree of strategic information and the internal sensitivity of such information. These respondents suggested that specific arrangements, governance structures or guidelines for supervisors should be put in place to ensure confidentiality of recovery plans.	We understand the respondents' concerns about confidentiality of recovery plans. However, this is an issue for the Level 1 text which is dealt with in Article 76 of Directive 2014/59/EU and also explicitly mentioned for recovery plans in Article 7(3) of the Directive.	Confidentiality of recovery plans.
<b>Responses to questions in Consultation Paper EBA/CP/2013/01</b>			
<b>Question 1</b>			
Have you already drafted/approved a recovery plan or are you in the process of doing so? Is your recovery plan in line with the contents of the draft RTS?	The broad majority of respondents replied that they or their members had already carried out work preparing recovery plans in accordance with national legislation. Other respondents stated that in some jurisdictions requirements for recovery plans had not yet		



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	<p>been adopted.</p> <p>Some respondents remarked that their recovery plans or the recovery plans of their members were in line with the contents of the draft RTS or at least broadly in line with them. Other respondents remarked that their existing recovery plans or those of their members did not generally provide the level of detail specified in the RTS.</p>		
<p><b>Question 2</b></p> <p>Do you believe that the draft RTS on recovery plans are comprehensive and contain sufficient and relevant requirements to enable the timely and effective recovery of an institution in the event of financial distress?</p>	<p>Most respondents believed that the proposed draft RTS contained all relevant requirements and did not think that any significant elements were missing. Some other respondents felt that the requirements for recovery plans appeared in part to be too closely defined or too detailed.</p> <p>Many comments were made with respect to the principle of proportionality for recovery plans as reflected in Article 4 of Directive 2014/59/EU.</p> <p>Some respondents remarked that the technical standards were tailored for institutions of systemic importance for</p>	<p>The RTS set out rules concerning the information to be included in the recovery plans of institutions which are not subject to simplified obligations as described in Article 4 of Directive 2014/59/EU. The RTS contain minimum requirements because pursuant to Article 5(4) of Directive 2014/59/EU Member States may require that additional information be included in recovery plans.</p>	<p>Article 1 has been amended to clarify that the RTS apply only to institutions that are not subject to simplified obligations as specified in Article 4 of</p>



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	<p>financial markets. As Article 1 of the draft RTS specifies minimum requirements, they felt that the principle of proportionality of Article 4 of Directive 2014/59/EU was not sufficiently reflected in the draft RTS. Three of these respondents remarked that the requirements in the RTS contained 'maximum requirements' for recovery plans.</p> <p>One respondent stated that it was unclear whether the draft RTS also cover recovery plans that are subject to simplified obligations as described in Article 4 of Directive 2014/59/EU.</p>		Directive 2014/59/EU.
<p><b>Question 3</b></p> <p>Please provide your views on the indicators and escalation process as stipulated in the draft RTS under Articles 2(2)(a) and 5(c), and on the other governance arrangements provided for by Article 5.</p>	<p>Respondents unanimously welcomed the clarification in the RTS that the triggering of indicators should not automatically result in the taking of specific recovery options but should rather start an escalation and decision-making process.</p> <p>(1) Some comments were also received on the description of indicators in Article (5)(c)(2). Four respondents suggested that the escalation process should not only be based</p>	<p>(1) A reference that indicators should be quantitative and qualitative is also contained in Article 9 of Directive 2014/59/EU and the FSB guidance on recovery scenarios and triggers. However, this issue should be dealt with in the EBA guidelines on indicators pursuant to Article 9(2) of Directive 2014/59/EU.</p>	<p>The issues raised under (1), (2), (3) and (4) should be dealt with in the EBA guidelines on indicators pursuant to</p>



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	<p>on quantitative, but also on qualitative indicators.</p> <p>(2) (a) Several respondents asked for clarification on the difference between risk indicators or early warning indicators that are used in the day-to-day risk management or in the business continuity plan, and indicators triggering the escalation process described in the recovery plan.</p> <p>(b) Three respondents raised a question about the way the CRR/CRD IV additional buffers would be considered in the escalation process. According to these respondents, an institution should not be considered in need of recovery when it is operating within the flexibility provided by the additional buffers.</p> <p>(c) Two respondents raised the point that it must be ensured that an institution is not deemed to be 'in need of recovery' as long as the 'overstepped' indicators are still at a stage</p>	<p>(2) (a) In addition to recovery indicators, early warning indicators may be used by institutions to signal negative trends and are monitored on a business as usual basis. These early warning indicators are conceptually similar to recovery indicators, but are distinguished primarily by the point in time on the recovery timeline; an early warning indicator would be calibrated so that it alerts the institution to adverse circumstances earlier than a recovery indicator.</p> <p>(b) The institution should have indicators in place to monitor use of CRR/CRD IV additional buffers because the use of these buffers can indicate the deterioration of the financial situation of the institution.</p> <p>(c) Recovery indicators should be calibrated so that they provide sufficient notice to allow the institution to take corrective action. Therefore they should be reached at a stage before regulatory authorities can take early intervention measures and also before reaching insolvency thresholds. In addition, a recovery</p>	<p>Article 9(2) of Directive 2014/59/EU.</p>



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	<p>before regulatory authorities need to take early intervention measures or lie below the insolvency threshold.</p>	<p>plan must include measures which can be taken where the conditions for early intervention under Article 23 are met.</p>	
	<p>(3) One respondent remarked that indicators should focus only on threats to capital and liquidity. Another respondent thought that indicators on profitability were not useful for recovery planning because degradation of profitability would be shown after a delay. One respondent asked for clarification on what is meant by indicators relating to risk profile.</p>	<p>(3) To be useful, indicators need to focus on more circumstances than just capital and liquidity. Indicators on profitability can be useful, especially in a scenario of slow-moving financial distress. Further clarification on indicators will be incorporated in the EBA guidelines on indicators pursuant to Article 9(2) of Directive 2014/59/EU.</p>	(5) Amended.
	<p>(4) Two respondents wanted to see early warning systems and information from the employees mentioned. Finance employees were often the first to realise that company practices were unsound. Therefore the RTS should include a section on whistle-blowing procedures, like the wordings under Article 71 in Directive 2013/36/EU.</p>	<p>(4) It should be sufficient that whistle-blowing is included under Article 71 Directive 2013/36/EU. Specific questions on qualitative and quantitative indicators should be covered in the EBA guidelines on indicators (Article 9 of Directive 2014/59/EU).</p>	(6) No change.
	<p>(5) A number of respondents suggested that in Article 5(a)(1) and Article 5(c)(1)(a) instead of the 'identification of natural persons' it should be sufficient to identify the role and function</p>	<p>(5) The suggestion is logical; however, it should be taken into account that decisions are often made by committees. If a committee is involved in the process, the role, function and responsibilities of committee members shall</p>	

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of these persons. Respondents argued that staff frequently changes and the responsibilities are better attached to a particular position than a particular individual.

(6) A number of respondents found that there should not be a requirement for a plan to be reviewed by an external auditor (Article 5(b)(1)). Recovery plans describe possible strategic options and therefore cannot be audited in the same way as financial statements or budgets.

(7) Some respondents remarked that Article 5(d)(1), which requires that the recovery plan documents 'a description of how management information systems are managed', was rather too generic. They found it unclear which management information systems were covered and what specifically was required.

also be specified in the recovery plan.

(6) Article 5(b)(1) does not require the recovery plan to be reviewed by an external auditor. Instead, it should be described whether the recovery plan has been approved by an external auditor.

Review of the recovery plan by an external auditor who is familiar with the institution can be beneficial to verify the adequacy of strategic analysis and scenario analysis as well as whether it will be possible to implement recovery options in specific scenarios as laid out in the recovery plan. This would not concern an audit of strategic options, but an audit of the underlying factual data.

(7) This is a sensible comment. Article 5(d)(1) should be deleted. It is important that the institution ensures that the information necessary for possible implementation of recovery options can be made available within a short timeframe. The requirement contained in Article 5(d)(2) sufficiently covers this purpose.

(7) Deletion of Article 5(d)(1).



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<b>Question 4</b>	Please provide your views on the relationship between the governance arrangements provided for by Article 5 and current risk management processes/governance arrangements such as the Internal Capital Adequacy Assessment Process (ICAAP) and the Internal Liquidity Adequacy Assessment Process (ILAAP).	<p>(1) Many respondents broadly supported the governance requirements in Article 5 of the draft RTS and agreed that the recovery planning process should form part of the risk management and governance arrangements. The broad majority of respondents saw strong links between the governance of recovery plans and business-as-usual risk management processes and governance arrangements.</p> <p>(2) Some respondents thought that some components of ICAAP and ILAAP procedures could be included in the design of recovery plans. However, they saw no need for fully merging these procedures because ICAAP and ILAAP deal with day-to-day prudential requirements whereas recovery plans refer to broader financial distress. This difference between ICAAP and ILAAP and recovery plans was also mentioned by other respondents. Some other respondents remarked merging ILAAP, ICAAP and recovery planning requirements into a single comprehensive document or an all-encompassing regime should be considered.</p>	<p>(1)-(4)</p> <p>No change necessary.</p> <p>(2) We agree that there is no need to fully merge ILAAP, ICAAP and recovery planning because ICAAP and ILAAP deal with day-to-day prudential requirements whereas recovery plans refer to broader financial distress.</p> <p>(3) The draft RTS do not prohibit the integration</p>



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	<p>(3) Some respondents remarked that the requirement for contingency funding plans should be removed, merged with recovery plan requirements or incorporated into a recovery plan as their purpose was now fully captured in the recovery plan requirements. In this context other respondents suggested that it should be permitted to make reference to existing processes in order to avoid redundant arrangements.</p> <p>(4) Some respondents remarked that the governance arrangements provided for by Article 5 of the RTS should not prejudice any organisational structure of a credit institution beyond the scope of recovery planning. Given that tasks connected to recovery planning also concern strategic issues in a broader sense, recovery planning should not be mandatorily or automatically classified as an extension of the risk management function.</p>	<p>of relevant parts of the contingency funding plan in the recovery plan. In any case recovery plans and contingency funding plans should complement each other in a consistent way.</p> <p>(4) The draft RTS do not intend to prejudice any organisational structure of a credit institution.</p>	
<p><b>Question 5</b> Please provide your views on the requirements for the description of the institution or group, as stipulated by</p>	<p>(1) A number of respondents thought that the Strategic Analysis contained in Article 6(3) should be more properly situated in the resolution plan. It was mainly argued that the</p>	<p>(1) The first part of the strategic analysis specified in Article 6(3) is necessary in order to facilitate the assessment of recovery options such as divestments and sales of business lines.</p>	<p>No change.</p>





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<p>the strategic analysis in the draft RTS under Article 6(3).</p>	<p>information requested in this section was not related to recovery planning as such, but it was understood that it was to provide the authorities with the relevant information for planning how to resolve the institution.</p> <p>Some of these respondents, however, recognised in principle that parts of the strategic analysis contained in Article 6(3) were relevant also for recovery planning. One of these respondents stated that any effective recovery plan ought to be inherently designed to ensure the continuing operation of critical functions and core businesses. The respondent suggested that these aspects should be discussed only in the context of what is relevant to specific recovery options. This opinion was shared by another respondent with respect to issues of internal interconnectedness. Apart from this, the complete strategic analysis should only be part of the resolution plan to avoid duplication.</p> <p>On the other hand, a number of respondents expressed their support for the Strategic Analysis contained in Article 6(3) because such</p>	<p>For this purpose it is important to identify the legal entities in which core business lines and critical functions are located, as well as to analyse intra-group interconnectedness. In addition, the competent authorities are required to evaluate (a) whether the implementation of arrangements proposed in the recovery plan would be reasonably likely to restore the viability and financial position of the institution and (b) the extent to which the recovery plan or specific options could be implemented without causing any significant adverse effect on the financial system (Article 6(2) of Directive 2014/59/EU). In this respect, Article 6(1) of Directive 2014/59/EU requires institutions to demonstrate to the satisfaction of the competent authority that the recovery plans meet the criteria of Article 6(2). For this it will be necessary for institutions to identify core business lines and internal interconnectedness to be able to assess which business activities must be continued to restore their long-term viability and financial positions. In this context it will also be necessary for the institutions to identify critical functions and describe external interconnectedness to be able to elaborate on the possible external impact</p>	

**Comments****Summary of responses received****EBA analysis****Amendments to the proposals**

an overview was deemed necessary in order to construct a relevant and effective recovery plan framework. One of these respondents asked to avoid duplication of this information if it was contained elsewhere (e.g. Resolution Packs in GB). One further respondent believed that it would be useful to keep an analysis that is updated on a regular basis regarding the profitability of business lines, activities and units of the institution. This information could be a valuable tool in choosing between the alternatives contained in recovery plans. Another respondent expressed that it supported the requirements for the description of the institution or group as stipulated in the strategic analysis, but was opposed to a description of external interconnectedness.

and systemic consequences of proposed recovery measures.

The strategic analysis should be specified as one part of the recovery plan instead of referring only to certain aspects within the description of recovery options.

It would be helpful for institutions to have a clear picture of all core business lines, critical functions and interconnectedness and would promote the proposal of coherent recovery options. This strategic analysis is also vital for the assessment of recovery plans by the competent authorities. It provides the authorities with the necessary information to place an institution's recovery options in context and to assess the plausibility of these recovery options.

The issue of duplication is mitigated by the fact that institutions will also have to prepare some of the information contained in the strategic analysis for the resolution plan. If this information has been provided to authorities for recovery planning, authorities can also draw

(2) No change.

**Comments****Summary of responses received****EBA analysis****Amendments to the proposals**

on this information for resolution planning.

(2) Some respondents were particularly opposed to identifying critical functions in recovery plans, believing this should rather be left for the resolution plan. The focus of the recovery plan should be on options for the recovery of institutions rather than the maintenance of critical functions. Some of these respondents also claimed that it would be too demanding for institutions to identify critical functions and asked for sufficiently interpretable guidelines and/or examples in the explanatory notes.

(2) Annex A No 7 of Directive 2014/59/EU states that critical functions should be identified in the recovery plan. This identification is necessary to fulfil the requirements of Article 6(2)(a) of Directive 2014/59/EU for the competent authorities and Article 6(1) of Directive 2014/59/EU for the institution (see above).

Clarification of critical functions will come from an iterative process between institutions and competent authorities when competent authorities review the functions identified as critical by the institutions (Directive 2014/59/EU provides a mandate in the last sentence of Article 2 for the Commission to adopt delegated acts to specify the definition of critical functions).

(3) No change.

(3) With respect to internal and in particular external interconnectedness some respondents thought that the information required was rather volatile and could be subject to sudden changes. This applies in particular to the main counterparties on the asset and liability side because these counterparties are constantly changing.

(3) We do not believe that the categories of significant exposures and liabilities to main counterparties (e.g. Top 10 counterparties) or the main structures of intra-group funding will be subject to changes so significant that the description in the recovery plan is rendered useless. If substantial changes occur they can be

(4) No change.



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	<p>(4) Two respondents remarked that a description of the employment situation should be included along with an analysis of the impact of the plan on the employees of an institution under Article 6(3) regarding the description of the institution and under Article 6(3)(c)(4) regarding operational interconnectedness.</p>	<p>addressed in the annual update of the recovery plan.</p> <p>(4) We consider such a requirement to be overly detailed. With respect to employees, Directive 2014/59/EU mentions only the following in Recital 21(b) of the Directive, which reads as follows:            ‘Recovery and resolution plans should include procedures for informing and consulting with employee representatives throughout the recovery and resolution processes where appropriate...’.</p>	
<p><b>Question 6</b></p> <p>Please provide your views on the requirements for the recovery options, as stipulated by the strategic analysis in the draft RTS under Article 6(4). Does this requirement comprehensively and adequately capture the different categories of recovery options that could be considered?</p>	<p>(1) Two respondents remarked that recovery options should not be focused on maintaining critical functions as specified in Article 6(5)(a)(1) but should rather aim to restore the capital and liquidity position of the institution. These respondents also thought that the assessment of external impact and systemic consequences in Article 6(5)(b)(2) should be deleted. On the other hand, one respondent explicitly stated that, where relevant, an assessment of the external impact and systemic consequences should be</p>	<p>(1) Article 6(5)(a)(1) has been amended to reflect the final version of the Level 1 text.</p> <p>The assessment of external impact and systemic consequences of recovery options as described in Article 6(5)(b)(2) is necessary because otherwise the competent authorities will not be able to assess whether specific recovery options could be implemented successfully in situations of financial stress and without causing any significant adverse effect on the financial system as required in Article 6(2)(b) of Directive 2014/59/EU. In this respect a</p>	<p>(1) Amended.</p>



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	conducted.	<p>requirement has been added to Article 6(1) of Directive 2014/59/EU according to which Member States will have to require institutions to demonstrate to the satisfaction of the competent authority that their recovery plans meet the criteria of Article 6(2). To satisfy this requirement, it will be necessary for institutions to elaborate on the possible external impact and systemic consequences of proposed recovery measures.</p>	
	<p>(2) Three respondents suggested that some guidance should be given on the expected timeframe within which the described recovery options should be effective.</p>	<p>(2) The recovery plan should contain recovery options to counter slow- and fast-moving situations of financial distress. However, within the impact and feasibility assessment pursuant to Article 6(5)(b), an institution should specify the expected timeframe for the implementation of recovery options.</p>	<p>(2) A requirement to specify the expected timeframe for the implementation of recovery options has been added to Article 6(5)(c).</p> <p>(3) Amended.</p>
	<p>(3) A number of respondents disagreed with an operational contingency plan for each recovery option explaining how continuity of</p>	<p>(3) It does seem to be excessive to ask for an operational contingency plan for each recovery option. What is required is that the institution</p>	



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	<p>operations can be maintained [Article 6(5)(c)(3)]. It was suggested that such an operational contingency plan should only be provided for those specific recovery options which could entail an interruption in the provision of critical services; i.e. only 'where relevant'. Continuity of operations should be part of the feasibility assessment of recovery options.</p>	<p>ensures the continuity of operations when implementing recovery options if applicable. In this context it will be necessary to consider in the recovery plan whether the continuity of operations might be affected by a recovery option or not. Therefore the word 'plan' should be deleted as an assessment of these matters should be sufficient. It also makes sense that continuity of operations should be part of the feasibility assessment of recovery options. If the continuity of operations is not ensured, the recovery option cannot be feasible.</p>	(4) No change.
	<p>(4) One respondent proposed the deletion of the whole of Article 6(5)(d) because recovery plans should not contain pre-planning for particular supervisor-defined scenarios that are unlikely to be the real scenarios institutions would actually face. Other respondents suggested that generic scenarios should be tested and analysed instead of specific scenarios because the relevant economic environment in a recovery situation is difficult or virtually impossible to predict. One respondent found it useful to use the scenario analysis for testing the diversity and</p>	<p>(4) Article 5(6) of Directive 2014/59/EU requires that recovery plans contemplate a range of scenarios of severe macroeconomic and financial stress relevant to the institution's specific conditions. According to Article 7(5) a range of recovery options shall be provided, setting out actions to address the scenarios provided for in Article 5(6). For each of these scenarios, a group's recovery plan must identify whether there are obstacles to the implementation of recovery measures within the group [...]. The section of Article 6(5)(d) concerns the scenario analysis with the purpose of also</p>	



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	<p>effectiveness of recovery options.</p> <p>(5) Some respondents misunderstood Article 6(4) or at least found it unclear insofar a recovery plans should only include recovery options that are extraordinary in nature and that are not implemented in the course of an institution or group's normal business.</p>	<p>testing the diversity and effectiveness of recovery options in a quantitative way. More details on this will be given in the EBA guidelines on scenarios (Article 5(7) of Directive 2014/59/EU). Generic scenarios would not be helpful for this purpose. If only generic scenarios had been intended by the of Directive 2014/59/EU, it would not make sense that Article 5(7) of Directive 2014/59/EU requires the EBA to develop guidelines further specifying the range of scenarios to be used for the purposes of Article 5(6) of Directive 2014/59/EU. However, generic scenarios could be taken into account by the institution when assessing the feasibility of recovery options pursuant to Article 6(5)(b) under the general menu of recovery options.</p> <p>(5) It is intended that recovery options do not always have to be extraordinary in nature but could also include measures which could be taken in a business-as-usual scenario (sale of assets, divestitures, capital raising, etc.).</p>	(5) Amended.
<p><b>Question 7</b></p> <p>Please provide your views on the requirements for the communication plan, as</p>	<p>(1) Some respondents considered it excessive to require a communication plan for each recovery option. Several respondents stated</p>	<p>(1) It is necessary for institutions to consider internal and external communication needs for the implementation of each recovery option in</p>	(1) Amended.



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
<p>stipulated in the draft RTS under Article 7.</p>	<p>that the communication plan should be flexible to deal with a variety of situations due to the uncertainty surrounding a future crisis. Therefore, some of these respondents thought that the communication plan should not be 'detailed'. Another of the respondents thought that the recovery plan should not contain a communication plan at all. A further respondent thought that it should be sufficient to have an overall communication strategy that could be adapted to the specific circumstances of an actual crisis.</p> <p>Other respondents were supportive of the requirements of Article 7 in its present form.</p>	<p>advance. It would be too late to start these considerations once a crisis scenario has already set in. However, a communication plan does not exclude flexibility when dealing with a specific crisis. The extent of detail provided should be proportionate to the importance of the recovery option for the institution and to the extent of communication that is required for that recovery option. However, a recovery plan for each recovery option does seem excessive. It should be sufficient if an institution has a concept for communication and disclosure and elaborates on the specific communication needs connected with particular recovery options.</p>	<p>(2) No change.</p>
	<p>(2) Many respondents were concerned that Article 7(1) required institutions to disclose to the public the content of their recovery plans ex ante. Several respondents thought that there should not be any public disclosure of trigger breach or public disclosure that the institution has activated its recovery plan. Three respondents thought that the requirements for disclosure in Article 7 should be consistent with other requirements, e.g.</p>	<p>(2) Article 7(1) does not intend any ex ante communication of any part of the plan. The communication plan should deal with adequate communication of the implementation of recovery options as they take place. With respect to public disclosure of trigger breach or activation of recovery plan, general requirements governing disclosure of price-sensitive information ('ad hoc reporting') should apply. It is not intended that the RTS impose</p>	





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	requirements imposed on listed companies.	different requirements for such disclosure. Article 7(2) is clear enough in setting out that no ex ante communication of any part of the recovery plan is required (as it refers to implementation 'in a recovery phase').	
<p><b>Question 8</b></p> <p>Please provide your views on the requirements for preparatory measures, as stipulated in the draft RTS under Article 8, providing in particular your views on the question of what types of preparatory arrangements or measures could or should be taken into account in the analysis of the recovery plan.</p>	<p>Certain respondents were opposed to taking preparatory measures in principle. Other respondents were concerned that prior implementation of preparatory measures would pose an excessive burden for institutions if they already had a wide and diversified variety of recovery options available. Further respondents were concerned that the obligation to take preparatory measures would be automatically triggered or would impair the position of an institution to react flexibly to a given situation.</p>	<p>The RTS does not provide any automatic requirement to implement preparatory measures. The intention of preparatory measures is to ensure that if material impediments to the implementation of recovery options are identified in the impact and feasibility assessment of Article 6(5)(b), the institution should specify steps to remove these impediments.</p>	<p>Wording has been clarified.</p>

