

GENERAL COMMENTS

Santander welcomes the opportunity to respond to the EBA's Consultation Paper on Draft Regulatory Technical Standards *on the assessment of recovery plans under the draft directive establishing a framework for the recovery and resolution of credit institutions and investment firms* (RRD), published on May 20, 2013.

Santander strongly supports the EBA's efforts in the establishment of a **harmonized framework of standards for National Supervisory Authorities (NSAs) when reviewing and assessing the completeness, the quality and the credibility of recovery plans (RPs)**. This common benchmark is key to avoid non-level playing field implications arising from divergent national practices.

Santander supports that the RTS be adopted by means of a regulation so that they are binding in their entirety and directly applicable in all Member States.

From a broader perspective, we would encourage a similar approach to establish an international assessment standard that would avoid any discrepancies issuing from differing local practices in non-EU countries and which would enable greater coordination in supervisory colleges.

Going forward, promoting the convergence on the assessment of recovery plans is ultimately linked to fostering greater harmonization on both the content of recovery plans and the specification of scenarios. **Indeed, a common benchmark for NSAs can only be attained if the basis for their evaluation exhibits a sufficient degree of convergence across Member States. The importance of this premise cannot be overstated.**

Therefore, linking this Consultation to our responses to the EBA Consultation on the Content of Recovery Plans (EBA/CP/2013/01) and to the Consultation on Scenarios (EBA/CP/2013/09), we would like to highlight our core key messages in each one:

- Some of the information requested as part of the content of RPs is more reasonable for resolution purposes than for recovery. Examples include the identification of critical functions, internal and external interconnectedness, mapping of core business lines, etc. This information should only be included for recovery purposes if a recovery measure entails a disruption of a critical function.
- **To ensure the consistency of the measures being assessed, it must be made clear that recovery measures may be used in previous situations as in the course of the institution's or group's normal**

business. Therefore, recovery measures do not have to be in all cases extraordinary in nature as stated in the EBA Consultation on the Content of RPs. Moreover, NSAs should be duly aware when assessing recovery measures that their nature should not prescribe, nor define, whether an entity is in BAU or in recovery.

- To ensure the level-playing field, we would welcome the issuance of RTS on the definition of severity and on the parameters that determine the likelihood of occurrence when defining recovery scenarios. **Santander** would like to reiterate that scenarios cannot be *both* extraordinary and plausible. Competent authorities should be fully aware of this fact when assessing the consistency and credibility of scenarios.
- Similarly, we believe that the assessment of RPs by competent authorities would be greatly enhanced if a common baseline structure is defined which includes RTS on the number of scenarios that should be considered in the short run and in the long run and on the definitions for parameters (or “events” as they are referred to in the EBA Consultation). And, most importantly, RTS need to link the list of parameters to potential impacts in a structured and straightforward manner.
- Finally, we would also encourage the development of guidelines covering the coordination of the design and the content (especially regarding the degree of severity and the likelihood of occurrence) of scenarios in recovery plans and those envisaged in other documents for other purposes (i.e. capital planning, liquidity contingency plans, public stress tests). In our view, significant scale economies could be reaped for assessment purposes by using common baseline scenarios to these exercises provided this coordination exists (via enhanced procedures in supervisory colleges).

SANTANDER RESPONSE TO CONSULTATION QUESTIONS

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

The assessment conducted by NSAs of our corporate RP (which includes as an annex local RPs for our significant subsidiaries) broadly aligns with the general criteria established in the EBA's DRTS.

Given our model consisting of self-contained subsidiaries, autonomous in capital and liquidity, thought subject to common corporate policies, a key assessment theme to be considered by NSAs is the importance of existing governance arrangements between the Group and its local subsidiaries to ensure the coordination of the design, approval and potential activation of recovery plans. **The governance framework is essential to ensure cohesiveness and credibility in our RPs.**

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

Santander broadly agrees with content of recital n.3 (pg.9) which states that the *“exact matters that the competent authority must assess will depend on the content and extent of the recovery plan and, among other things, whether the institution or group is subject to simplified obligations pursuant to Article 4 of Directive XXXX/xx/EU [RRD].”*

Hence, we are of the view that if RTS are issued on the assessment of the completeness of RPs, either no specific matters should be laid out (contrary to the approach in art. 3) or, alternatively, the list of matters should contain **all** relevant ones.

For instance, it is somewhat odd that matter “c” on the use of central bank facilities is included among matters “a,” “b” and “d” of art. 3.1 which clearly have a much broader and general scope than matter “c” which is overtly specific.

Conversely, it is also striking that the importance of governance arrangements when assessing the completeness of group recovery plans is not included under art. 3.2.

Hence, we would suggest either providing an exhaustive list of all the relevant matters when assessing the completeness of RPs (akin to the approach under art. 5 when assessing the credibility of RPs) or avoiding listing any at all and simply providing general principles or guidelines aligned with recital n.3.

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

We fully agree with matters that should be assessed to ensure the quality of recovery plans and in particular that competent authorities shall verify that RPs include “*only relevant information.*” (pg.7). In this respect, **quantity should not be confused with quality.**

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

We endorse the list of matters to be assessed when ensuring the credibility of RPs, subject to the following specific comment on scenarios:

- The adequacy of the range of scenarios of financial distress against which the recovery plans has been tested (f) should be based on a common benchmark on their structure and on the severity and the parameters that determine the likelihood of occurrence.

We welcome that the DRTS clearly specify that it is up to competent authorities to determine “*the extent to which the implementation of recovery options by several institutions or groups at the same time could negatively affect the impact and feasibility of recovery options.*” (art 5.2c).

In the Consultation on the Content of RPs, the EBA suggested that the DRTS require an assessment of the external impact and systemic consequences of each recovery option. While institutions are well placed to be able to assess the impact on their immediate stakeholders, we consider it is more appropriate for relevant authorities to lead on the assessment of systemic consequences as this Consultation appears to clarify.

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

We agree with all of the elements provided, and in particular with the emphasis being made on governance processes and arrangements.

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

We agree with this analysis. Aligned with the findings on the FSB Thematic Peer Review (April 11, 2013), it seems reasonable to expect that those jurisdictions with less experience on the assessment of recovery plans (and to a large extent as well of resolution plans) shall experience higher costs related to IT upgrades, hiring and training of staff, etc.