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EBA - Recovery and Resolution Plans

The Division Bank and Insurance of the Austrian Federal Economic Chamber representing the entire Austrian banking industry appreciates the possibility to comment on “EBA - Recovery and Resolution Plans” and would like to submit the following position:

General remarks

We appreciate the efforts of EBA to review and examine the content of the various legislative and supervisory national initiatives with regard to recovery plans in order to help develop best practices and foster convergence on them within EU. We would like to stress the difficulty to assess a possible “template for recovery plan” at this stage. Most of the questions presented in the discussion paper are premature, since the national deadline for drawing up recovery and resolution plans is end 2012. Only then a thorough assessment is feasible.

We would like to emphasize a few general issues to be addressed:

- **regulator’s consistency:**
Inappropriate national barriers for the smooth functioning of internal capital/liquidity markets within cross border bank groups have the potential to threaten effective group management during crises when external markets are frozen and characterized by lack of confidence. Overly national perspectives may hamper exchange of liquidity, assets, capital, human resources, data and information which could in the end severely restrict a group’s recovery options during times of stress and could actually worsen a crisis. Consequently, roles, responsibilities, competences of and interaction between the national regulators and EBA should be clarified, to ensure a group RRP can be made without national ambiguities jeopardizing a consistent overall approach of the group. That includes role and function of college of supervisors and crisis management group.

- **focus on main issues/set common definitions :**
It is crucial not to burden the banks with conflicting instructions or excessive data request but leverage on the international experience to focus on the critical information to be required (for example for the identification of critical functions). Such requirements should be set by EBA to ensure the level playing field; clear and common definition should be set for the main requirements.
- **going vs gone concern in the setup of RRP:**
Some concepts, in particular the one of “critical economic function” seem to be addressed both as part of the recovery and resolution plan. We believe that for all parts of the RRP a clear distinction between a situation where a bank still manages a crisis as opposed to where it is being resolved is useful for all stakeholders to maintain a clear focus of goals and to properly distinguish terminology. In the context of resolution, a “critical economic function” is a product/activity of the firm whose withdrawal or disorderly wind down could have material impacts on the financial system and on the economy itself. By contrast, in the context of a recovery plan, the concept of “core functions” seems more appropriate, which denotes products/activities needed to guarantee the franchise value of the group. Mixing the two concepts may blur who is the main actor and what is the main goal in a situation of either recovery or resolution.

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

Following a guidance of the Austrian supervisory authority FMA and the Austrian Central Bank dated 14 March 2012 (<http://www.fma.gv.at/en/companies/banks/special-topics.html>), we are currently in the process of drafting a recovery plan. While the entire recovery and resolution plan has to be finalized by the end of 2012, the RRP is subdivided in 5 modules for which specific preliminary deadlines for submission are set. Module 2 (group structure) which was due end of April 2012 has already been submitted to the FMA and Austrian Central Bank. The deadline for submission of Module 3 (recovery plan) is July 2012, the deadline for Modules 1 (corporate governance), 4 (critical functions) and 5 (barriers to resolution) is September 2012.

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

No major differences have been identified. However some parts included in the EBA recovery plan template are a separate module of the Austrian guideline on RRP and are not included in the recovery plan.

Adaptation of the plan will also depend on legislative framework at EU level.

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

There is a supervisory guidance in place dated 14 March 2012, issued by the Austrian supervisory authority FMA and the Austrian Central Bank (<http://www.fma.gv.at/en/companies/banks/special-topics.html>).

This guidance is addressed to large internationally active banks in Austria (currently Erste Group Bank, Raiffeisen Zentralbank and UniCredit Bank Austria).

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

Supervisory guidances are legally non-binding recommendations, however, given the reputational risk and the risk of a deteriorating relationship to the supervisor, banks use their best endeavours to adhere to supervisory guidances.

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

The draft recovery template appears to be comprehensive, in certain aspects it exceeds the degree of detail of the recovery plan format developed by the Austrian supervisor.

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

- We have doubts on the merits of trying to predict exact magnitude and speed of specific crisis scenarios and to link these in a 1:1 fashion to recovery options, as this approach pretends that exact nature and impact of the crises can be predicted. A set of recovery options should, however, be associated with kinds of crisis (e.g. name crisis, market liquidity crisis, etc), rather than pretending that for each scenario a perfect set of recovery options can be pre-defined.

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

At the moment we do not have defined the methods on how to develop early warnings and triggers.

Definition of early warnings and triggers should be linked to existing bank internal key risk appetite metrics (in particular related to capital and liquidity) thus providing a direct link with existing governance and organizational practices.

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

In order to avoid inefficiencies, one of the main purposes of the Recovery Plan is to leverage as much as possible on existing capital and contingency liquidity policies in order to define an overall robust governance framework. The adoption of additional governance arrangements may be a consequence of recovery planning. In view of the fact that the process of recovery planning is in an early stage for large Austrian banks, it is too early to respond precisely to this question now.

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

Currently there is no real guidance regarding the treatment of recovery plans at group versus local level. Though it is not just a question of parent undertakings and its subsidiaries, moreover the special issue of cross border banking is not part of any guidance so far.

- In order to manage the preparation of the Recovery Plan a proper project structure has to be set up, identifying functions/committees involved and tasks and responsibilities of relevant participants. Respondents at Holding and Sub-Holding level seem to be appropriate there as the Holding coordinates work-streams of the local levels for each area of competence. Ensuring consistency should be managed by an active co-operation between the key group legal entities and by bringing consistency issues to everyone's attention; especially to supervisors of home countries and those of the relevant host countries. An EU legal framework for recovery plans would facilitate the task of achieving consistency for recovery plans of European cross-border banking groups.

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

The range of recovery measures in the template should be broad, it should not be exhaustive. The template in this respect should be considered more as a generic and flexible guide to the Recovery Plan rather than a rigid set of options amongst which the institution would be constrained to choose. Any bank should be let free to identify the measures more appropriate to the concrete and specific situation in which it will be involved. In any case, it is important that the considered measures should be feasible and effective.

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

Information included in recovery and resolution plans is highly sensitive data therefore confidentiality agreements of all parties/authorities involved are absolutely necessary, especially if the resolution authority established in a member state is not the supervisory authority. Recipients must be kept to an absolute minimum.

By limiting the access to such information (both in banks preparing the plans and with regard to authorities to which the plans are addressed) it should be manageable to keep the information confidential in order to prevent any unintended consequences for the concerned institution and the financial market.

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

The management should choose the most appropriate recovery measures in a certain crisis situation.

We do not see any benefit in ranking these measures. The qualitative dimension of measures is the most important element that defines an appropriate recovery plan. Moreover, we believe that the introduction of an excessive number of quantitative parameters can reduce the necessary degree of flexibility of the plan. The credibility of any recovery plan is in fact more related to its overall flexibility and feasibility.

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

In our view, the credibility of a recovery plan is largely dependent on the consistency of recovery measures towards the various types of stress: the likely effectiveness of each recovery option, through an analysis of the situations/circumstances in which a specific option may result as inappropriate and unfeasible; the definition of a formalized process, with a clear governance, that should identify a course of actions to be put in place including how to overcome obstacles that may arise.

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

In view of the fact that the process of recovery planning is in an early stage for large Austrian banks, it is too early to respond to this governance question. In addition, regulatory framework should be well defined to incorporate relevant requirements.

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

Interactions should be as frequent and flexible as needed to prepare a solid and robust recovery plan that suits the needs of the preparing institution and the supervisor. Until the plan is not in the steady state, we would expect that more frequent interactions are needed. Thereafter perhaps twice a year may seem adequate for ongoing annual updates, e.g. one in spring time to assess the plan delivered at the end of the previous year, and another one in autumn to fine tune the requirements for the subsequent delivery.

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

- We agree that the structural impact of any recovery plan on the financial institution has to be identified. However, forward looking business plans for the various recovery options should not be a mandatory part of recovery plans - the administrative workload connected with the preparation of a larger number of business plans is substantial and clearly goes beyond the aim of RRP project. Moreover, there is a risk that such detailed business plans could limit the recovery options contemplated by the institution.
- A recovery plan should be designed as a helping tool for the management to handle a certain crisis situation. Hence, there is a risk of too much detailed business plans could limit the recovery options contemplated by the institution.
- For each recovery measure an assessment of its impact on the business model, the bank's sources of revenues as well as its P&L should be prepared. A forward looking business plan assuming the implementation of various or even all recovery options at the same time is not possible.

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

As evidenced by surveys on banks who have gone through RRP efforts, there are potential benefits for banks, such as gaining a better operational understanding of the business overall, a reduction in the complexity of the business and greater insight into how to best use available capital and liquidity best across the group. While these potential benefits should foster best practice in several bank areas, they are difficult to quantify in monetary terms. At the same time, given that a clear and finalized regulatory framework is still missing, it is also not possible to quantify costs, neither one-off nor on-going costs.

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

In view of the fact that the process of recovery planning is in an early stage for large Austrian banks, It is too early to respond to this governance question. One respondent informs that at the moment there are no planned changes in the organizational model strictly connected to the Recovery Plan.

Yours sincerely,

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