



**BANKING STAKEHOLDER GROUP**

CONSULTATION ON EBA/CP/2015/05 ON  
“DRAFT REGULATORY TECHNICAL STANDARDS AND GUIDELINES ON  
BUSINESS REORGANISATION PLANS UNDER DIRECTIVE 2014/59/EU  
(BRRD)”

# General Comments and Replies to Questions

BY THE EBA BANKING STAKEHOLDER GROUP

London, 5<sup>th</sup> June, 2015

## Foreword

The EBA Banking Stakeholder Group (“BSG”) welcomes the opportunity to comment on the Consultation Paper EBA/CP/2015/05 “Draft Regulatory Technical Standards and guidelines on Business Reorganisation Plans under Directive 2014/59/EU (BRRD)”.

This response has been prepared on the basis of comments circulated and shared among the BSG members and the BSG’s Technical Working Group on Recovery and Resolution.

As in the past, the BSG supports an initiative that aims at harmonizing supervisory rules and practices across Europe, in order to ensure fair conditions of competition between institutions and more efficiency for cross-border groups. The BSG also expects these initiatives to facilitate data sharing between European supervisors and avoid reporting duplications for banks.

This response outlines some general comments by the BSG, as well as our answer to the question indicated in the CP.

## General comments

In case of resolution of a credit institution and the application of the bail-in tool by the resolution authority, the BRRD requires the management board to draw up and submit a business reorganisation plan that contains measures to establish the long-term viability of the credit institution. The BSG welcomes the guidance given in the consultation paper and deems it generally appropriate to address the relevant aspects of business reorganisation plans.

The BSG shares the concerns raised in the consultation paper with regard to the necessary coordination between competent and resolution authorities as outlined in chapter 3.3. Although BSG strongly supports the separation of competent and resolution authorities it is of utmost importance to have a close cooperation and alignment of these authorities before and in case of resolution of a credit institution. Otherwise, a prolonged conflict between both authorities regarding the conclusions drawn from the plan assessment may lead to contradictory messages sent to the market hence sparking uncertainty about the institution’s capacity to restore its

long-term viability. In case of cross-border resolution the potential for conflict and complexity of coordination is further increased and needs to be properly addressed.

Therefore, BSG supports the proposal of EBA as outlined on page 9 of the consultation paper to extend the scope of the application of these GL to include provisions on the coordination between the competent and resolution authorities.

## Replies to Questions

### **1. Do you consider it relevant to define the “reorganisation period”? Do you consider the current definition clear?**

We consider the definition of “reorganisation period” sufficient and clear. We do not see the need to further concretize the length of the reorganisation period because this will strongly depend on the general market and economic conditions at the time of reorganisation.

### **2. Is the concept of “business line” sufficiently clear? Can measures and performance be provided at a “business line” level?**

We consider the concept of “business line” sufficiently clear and expect that measures and performance can be provided at a “business line” level. This is the usual approach of banks’ planning/budgeting processes and necessary to have a credible assessment of the reorganisation plan.

### **3. Do you agree that an institution under resolution should use the reorganisation opportunity to address any shortcomings in the remaining business?**

We consider a situation where the resolution authority has applied the bail-in tool as severe enough that management has to assess the institution as a whole to identify all areas where shortcomings can be addressed. This should be done in a reasonable manner so9 as not to divert focus on activities that do not provide material benefit.

**4. Is it appropriate to consider the impact of the reorganisation strategy and measures on the functioning of financial system and the overall financial stability? Would it be appropriate to further detail the requirement regarding the impact of the reorganisation strategy on specific metrics, such as lending?**

We deem that the assessment of the impact of a reorganisation strategy and measures on the financial system and stability has to be carried out by the resolution and competent authorities. The analysis of the institution under resolution will have only limited benefit. Therefore we do not deem it appropriate to give further detail on this requirement.

Moreover, in the case that this assessment is required for institutions, detailing the requirement with specific metrics may be unnecessary and a difficult task for the authorities since the causes of the resolution can range from an idiosyncratic to a systemic crisis, and hence the spill-over effects on financial stability may need significantly different metrics regardless of the details of the reorganisation plan.

Indeed, these issues should have already been considered by the resolution authority when working out the resolution strategy. The resolution strategy should have concluded that bail-in is the most appropriate tool to maintain critical functions of the institution and as such ensure the functioning of the financial system and overall financial stability. The reorganisation strategy and measures should focus on activities necessary to support the implementation of the resolution strategy, i.e. the internal changes necessary to ensure the resolution strategy achieves the objective of restoring the institution's long-term viability.

**5. Is it feasible to obtain a commitment from the managers of the institution about the implications of the Plan and the appointment of responsible individuals in the institution for the implementation of the Plan?**

We assume that the respective management body of the institution under resolution approves the proposed reorganisation plan and thereby provides a clear commitment to the plan and its implementation. We do not consider that any further commitment to be necessary.

Furthermore, the BSG considers that the appointment of responsible individuals instead of affected departments is not appropriate since banks' staff are not permanent in their roles and even less if we consider that the relevant institution is under a resolution process. In this vein, it would be much more efficient to appoint responsible departments rather than individuals.

**6. The BRRD requires a Plan apply only in the event of use of the bail-in tool to recapitalise an existing institution. Are any of the provisions of the RTS and GL relevant in the event of use of the bridge institution tool, given the requirement that the resolution authority must approve the strategy and risk profile of the bridge institution? If so, which provisions do you consider relevant and why?**

To the extent that the application of the bridge institution tool is accompanied by material changes in the strategy and the risk profile of the institution the respective analyses should provide valuable input for the approval of the resolution authority.

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Submitted on behalf of the EBA Banking Stakeholder Group

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