

EBA/CP/2013/08

**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**

**Deadline 20-08-2013**

**Questions related to the draft RTS:**

**Q01 - 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?**

In Portugal, recovery plans were presented for the first time in the first quarter of 2013, and have been assessed by Bank of Portugal.

The plans that were presented had to comply with Bank of Portugal's Aviso 12/2012, which defines recovery plans' contents, in addition to article 116-D of RGICSF, which is Portugal's legal framework of credit institutions and financial companies.

The information that is requested in Aviso 12/2012 follows closely the one that is proposed in Part A of the Annex of the Crisis Management Directive, and the one that is contained in the current RTS Proposal.

**Q02 - 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?**

The elements that shall be subject to assessment are comprehensive. The plans that resulted from the application of Aviso 12/2012 are very complete and with a high level of detailed information.

In cases where the Bank of Portugal assessed that further clarification was needed, or that some elements were not sufficiently detailed, clarifications have been asked for the banks to complete or correct them.

**Q03 - 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 believe that this question is more appropriate for competent authorities to respond.

Nevertheless, as the current RTS proposal mentions, this assessment is of a subjective nature, embedded in expressions like "clear" and "understandable". Expressions like "sufficiently wide" or "sufficient level of detail" need some clarification and narrowing of scope.

Additionally, Articles 3 "*Completeness of recovery plans*" and 4 "*Quality of recovery plans*" should be directly related, and some of their features should be inseparable.

**Q04 - 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 believe that this question regarding the overall credibility of recovery plans is more appropriate for competent authorities to respond.

However, although the elements contained in Article 5 seem comprehensive and appropriate, it is of the utmost importance to point out that the recovery options that will actually be available at the time of stress will depend on the circumstances at the time. Hence, the options that will be predicted should also depend on the scenarios of financial distress.

It should be realistic to admit that under extreme situations the range of options available will diminish dramatically. This being said, regarding paragraph 1.b.ii, the prediction of a smaller number of available recovery options (in quantity) should not automatically mean that they are either of lower quality or that they hinder the recovery plan's credibility. More important than quantity is their quality and how realistically they will be able to be implemented.

Regarding paragraph 2.a, which assesses the extent to which the recovery plan satisfies the criteria set out in the Directive, this assessment should consider the type of stress scenarios that will be modelled. It must be predicted that actions taken by relevant market players will have systemic repercussions, but this should not necessarily mean that the recovery option is neither available nor credible.

Regarding paragraphs 2.b and 2.c, only competent authorities will have the means of assessing those risks. If systemic implications are too significant then it is up to the supervisor to act in accordance, but it should not be criteria for evaluating the credibility of a recovery plan when seen in isolation.

**Q05 - Could you describe what key elements the competent authority should assess when reviewing the matters stipulated in Article 5(3) letters a) to d)?**

No comments.

**Questions related to the Impact Assessment:**

**Q06 - 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 believe that this question is more appropriate for competent authorities to respond.

We do not agree with the sentence *"(...) Such costs will mainly affect competent authorities which will have to assess the recovery plans, and to lesser extent institutions, which may have to update and resubmit their recovery plan in case it fails to meet the requirements of this RTS. (...)"* because it does not take into consideration the economies of scale and experience that competent authorities may achieve, and that the financial institutions will not.

The costs are mostly related to personnel and the huge amount of time that it takes to develop procedures and methodologies.

Procedures and methodology costs will always be higher the first time plans are prepared. However, the costs of updating the plans will never be neglect able at all. As a matter of fact, even if there are no significant changes in the institution or in the group from one year to another, all the information will have to be carefully updated or confirmed, not to mention that all the scenarios will have to be reviewed and/or changed, and that new stress tests will have to be conducted. Hence, it will always be very time consuming for the people who will be involved, in spite of some learning experience that they might have throughout the years.