



11 June 2013

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Dear Mr. Farkas,

***DB response to EBA draft Regulatory Technical Standards on the content of recovery plans under the draft directive establishing a framework for the recovery and resolution of credit institutions and investment firms***

Deutsche Bank welcomes the opportunity to comment on the EBA's draft regulatory technical standards (RTS). We particularly appreciate the EBA's intention to seek views from industry and others on requirements under the Recovery and Resolution Directive (RRD) ahead of the legislation being formally adopted. This facilitates planning by firms and authorities and helps to identify any areas where the requirements could have unintended consequences.

The development of the draft RTS on recovery plans is particularly welcome, as it supports the EBA's recommendation in January 2013 for cross-border EU banks to prepare group recovery plans by the end of 2013. Last year's discussion paper on a recovery plan template and this consultation on draft RTS are important tools to promote consistency in approaches to recovery planning across Europe and to ensure supervisory expectations are consistent. Although the process for communication and agreement between home and host authorities is outside the scope of this consultation, this will be a crucial area for future EBA work.

Where we have provided answers below, this is based on our experience of an ongoing group-wide recovery planning exercise within a Crisis Management Group. Overall, we welcome the principles-based approach taken to this draft RTS, and suggest areas where we consider adjustments are needed to avoid an overly prescriptive approach, which would incur additional costs without a clear additional benefit.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'A. Procter', written over a light blue horizontal line.

Andrew Procter  
Global Head of Compliance, Government and  
Regulatory Affairs



**Q1: 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?**

Deutsche Bank (DB) has prepared a Group Recovery Plan which has been approved by the bank's Management Board and submitted to its main regulator, the Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin) and other members of its Crisis Management Group (German, UK and US authorities). DB is now in the process of embedding recovery planning into its run-the-bank policies and processes.

Our Group Recovery Plan is broadly in line with the draft RTS and covers the following key topics: Recovery Governance; Early Warning Indicators and Recovery Triggers; Recovery Measures; and Stress Testing and Walkthroughs.

**Q2: Do you believe that the draft RTS on recovery plans is comprehensive and contains sufficient and relevant requirements to enable a timely and effective recovery of an institution in the event of financial distress?**

We agree that the draft RTS is sufficiently comprehensive and covers the relevant requirements for effective recovery planning. It is welcome that the EBA has aligned its approach to the RTS with its discussion paper from last year on recovery planning. It is also welcome that the draft RTS takes a high level, principled approach to recovery plan requirements. This is important to avoid an overly-detailed prescriptive approach which would not take into account the business model, risk profile or organisational structure of a particular bank. A flexible approach to requirements also ensures that a bank's management can consider the full range of risks and options it may face in a situation of financial distress.

**Q3: 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.**

The governance arrangements, indicators and escalation process as proposed in the RTS reflect the approach that DB has taken with regards to its group recovery plan. We particularly welcome the recognition by the draft RTS that triggering of indicators should not automatically result in specific recovery actions. Rather, such triggers should prompt the bank to consider whether escalation or consideration of recovery options is needed. This ensures that the bank's decision-making processes are respected and senior management and the board are appropriately responsible for identifying and addressing problems when they arise.

**Q4: 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)**

DB strongly supports an approach in which recovery planning works with the grain of existing risk management and governance, as it links recovery planning into established infrastructure and processes and encourages a consistent approach to decision-making. As such, some components of governance in our ICAAP and ILAAP procedures are included in the design of our recovery plan, for example, recovery triggers and escalation. However, we do not see the need for further merging of these processes, given that ICAAP and ILAAP deal with day to day prudential requirements and the recovery plan prepares for broader financial distress.

**Q5: Please provide your views on the requirements for the description of the institution or group, as stipulated by the strategic analysis in the draft RTS under Article 6 (3)**

The EBA requirements for the description of the institution or group are comprehensive and cover the right aspects to give context to the discussion of recovery measures. DB's recovery plan includes in its strategic analysis a description of the group, its major legal entities, core



business lines and critical economic functions, along with a description of internal and external interconnectedness. This is from a group perspective.

Although the EBA is necessarily constrained by the final outcome that the co-legislators will reach on home/host issues in the RRD, we are concerned about the potential breadth (in terms of number of legal entities for which this description must be provided) and depth (in terms of the level of detail required) of application. A balance must be struck to ensure the information provided facilitates group-wide decision-making and actions in recovery.

In terms of breadth of application, as recovery planning is owned by the institution and any decisions on recovery measures will necessarily take place at the level of the group, in DB's view requiring additional plans for subsidiary institutions in other Member States is of limited benefit as they will necessarily refer to, rely on and replicate the group plan.

Therefore we are concerned that the proposed definition of "material legal entity or branch" takes both:

1. a group perspective - that is, key areas of business from the group perspective; and
2. a market perspective - that is, areas which are critical for financial stability.

The former is arguably most relevant for recovery planning, while the latter is more appropriate to inform resolution planning. The extent to which the recovery plan crosses into resolution should be limited. As such, we suggest removing Article 2 point (c) (6) to avoid blurring the distinction between the two.

In addition, we are concerned that the draft RTS may imply that the description of the institution or group should be prepared to the same level of depth for every material legal entity or branch. The added benefit of doing so for the purposes of group-wide recovery planning is questionable, compared to the effort involved in preparing this information and keeping it up to date. The requirements should be applied proportionately and only to the extent necessary to sufficiently reflect the group's actual organisational, capital and funding structure and potential risks in times of financial distress.

**Q6: 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?**

The draft RTS adequately captures the different categories and rightly says these should be considered by the institution and included in the plan where appropriate. This provides flexibility for groups to describe measures most appropriate to their approach to recovery, business model and structure.

The requirement to include arrangements to access contingent funding by assessing available collateral and the possibility to transfer liquidity on an intra-group basis is sound in principle, but this will be subject to any intra-group financial support agreements under the RRD. The same applies to Article 6(3) point (c) (2).

Under Article 6(5) point (c) (3), the draft RTS suggests that the operational contingency plan for any separation of an entity from the group should be able to demonstrate how it will operate without group support. This will depend on the nature of the transfer being carried out (e.g. in the event of a sale, the purchaser will often have responsibility to ensure this) and will vary according to circumstances. The level of detail required in operational contingency plans should therefore be proportionate, with greater detail as the likely need to use the option increases.



**Q7: Please provide your views on the requirements for the communication plan, as stipulated in the draft RTS under Article 7.**

We welcome the emphasis on the need to identify a communication and disclosure plan for each recovery option in the event that it is activated. However, we caution against the suggestion that the content and activation of recovery plans generally should be communicated and disclosed, especially publicly. The content is likely to be highly commercially confidential, and public disclosure could undermine recovery efforts and either render some recovery options impossible or exacerbate an institution's financial distress. General requirements governing disclosure of price sensitive information should apply.

**Q8: 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 what types of preparatory arrangements or measures could or should be taken into account in the analysis of the recovery plan.**

We agree that banks should identify in the recovery plan what preparatory measures are needed to execute recovery options. However, as with recovery triggers, any actions as part of preparatory measures should not automatically be required. This will depend on the nature of the recovery option and may depend on the particular situation with which the bank is faced. Otherwise, this risks wasting effort where the exact circumstances are unknown.

**Q09: Do you agree that some of the costs of preparing recovery plan are already incurred by the requirements of having a proper risk management framework?**

**Q10: Could you indicate whether all the main drivers of costs and benefits have been identified? Are there any other costs or benefits missing? If yes, could you specify which ones?**

**Q11: Do you agree that, for an institution, the costs of producing a recovery plan are likely to be proportional to the size/complexity of the firm and so of the costs its failure may create? If not, could you explain why?**

**Q12: 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?**

Although not dealt with directly in this draft RTS, we should like to flag concerns over the cost of recovery plans where there is the potential for duplicative or excessive requirements. There is considerable effort involved in developing and keeping a group-wide recovery plan updated. For most banks, decision-making on recovery will be taken at group level. As such, we are concerned that additional plans for host authorities or subsidiary institutions in other Member States will incur significant additional cost with little additional benefit.

This is especially the case where a bank is primarily centrally capitalised or funded, as the local recovery plan would only be meaningful insofar as it referred to the group recovery plan. Furthermore, we are concerned that, in the absence of effective communication and coordination between home and host authorities, it is more likely that local plans will be required by host authorities, undermining the group-wide approach to recovery planning. We therefore look forward to future EBA proposals to support regulatory cooperation.

In addition, excessive costs can be avoided and additional benefits realised by avoiding excessively detailed and prescriptive requirements. By setting out high level principles for the areas that the institution's recovery plan should cover and focusing on ensuring systems and processes are in place to detect and address difficulties when they arise, as this draft RTS has done, the onus is properly on the institution itself to be able identify issues and develop measures to address them as they related to their own business model, organisational structure and risk profile. This makes recovery planning more likely to be embedded into existing governance and risk management processes, and therefore more effective.