



Brussels, 11 June 2013

Position on the consultation paper of the European Banking Authority on Draft Regulatory Technical Standard (RTS) on the content of recovery plans in the context of the proposal for a directive establishing a framework for the recovery and resolution of credit institutions and investment firms

The European Federation of Building Societies (EFBS) is pleased to use the opportunity to make comments on the Consultation Paper on Draft Regulatory Technical Standard (RTS) on the content of recovery plans.

The European Federation of Building Societies brings together credit institutions and institutions which promote and support the financing of home ownership. It pursues the aim, in a politically and economically converging Europe, of promoting the idea of the acquisition of home ownership. The concept of saving-for-home-ownership is based on the idea of making available to a group of savers, by pooling their savings, the necessary funds to finance home ownership within a shorter time than would have been possible for a saver acting individually. For this, the customers of the Bausparkasse conclude a saving-for-home-ownership agreement for the savings amount required. They thereby undertake to make regular savings deposits. Bausparkassen grant loans secured by residential property to finance home ownership as a bulk business. In addition to this Bausparkassen business in the stricter sense, Bausparkassen are also allowed to make investments, however only in particularly safe investment vehicles.

The EFBS supports the attempt of the EU law maker to stabilize the financial market of the EU and to better prepare credit institutions for an important financial failure. Yet, the EFBS is concerned that harmonized provisions for all credit institutions in the EU, regardless of their resistance to the crisis, might destabilize different institutions with low risk business models, such as the Bausparkassen. For this reason, the EFBS would like to make the following comments on the consultation paper:

1. Proportionality in recovery plans

The EFBS criticizes the unitary obligation for all credit institutions to hold and review regularly their recovery plan on institutional and on group level, regardless of their business model or their relevance for the financial system, as proposed by the European Commission. This approach does not reflect that the endangerment of „a systemic crisis where problems in one bank can cascade across the system as a whole“ is not as imminent for every institution as they are not systemically important or as their activities are not cross-border activities. A range of specialized credit institutions is only operating on regional level, respectively their business activity is strictly regulated by national law. The numerous provisions and the interventions by competent authorities would, contrary to the initial intention of the EU law maker, overload and destabilize these institutions. In order to prevent negative impact, the principle of proportionality should not only be respected in the directive but also in the concrete provisions of the regulatory technical standard for recovery plans. Therefore, the EFBS appreciates that the competent authority shall consider in the process of assessing the recovery plan the size and the interconnectedness of the credit institution and the risk of its activities. However, in this context also the low risk business model should be mentioned. The

preparation of a recovery plan entails for a credit institution always an important organizational and financial effort. It could only be justified with the protection of the stability of the financial sector and with the intention to prevent the contagion of other institutions. But institutions which, due to their business model, do not hold these risks should only be subject to attenuated provisions. The national Bausparkassen Acts provide for the restriction that Bausparkassen may only accept savings deposits and grant housing credit. Securities transactions, other retail banking (consumer credit, credit card business) or even payments may not be offered by Bausparkassen. In addition, proprietary commitments of the Bausparkassen on the capital market are subject to massive restrictions; for instance, the Bausparkassen are permitted to invest only surplus collective funds in investments eligible for trusts such as, for example, loans to EU and EEA States. The background to this restriction is the protection of the building-for-home-loan savers and the collectivity against risky financial transactions by the Bausparkasse.

For these same reasons, the principle of proportionality should also be included in the draft technical standard specifying the range of scenarios to be used in recovery plans and the draft technical standard on the assessment of recovery plans (both currently open to consultation).

2. Level of detailed information in the recovery plans

The EFBS is of the opinion that due to the wide range of possible reasons for a financial crisis a recovery plan with detailed information on concrete measures cannot be drawn up in advance. A list of possible courses of corrective action, from which a choice could later be made by the management of the credit institution or the competent authority as to the most appropriate way of dealing with the crisis, should be included in the recovery plan instead. This proceeding would also allow restricting the unjustifiable extent of the recovery plan and avoiding recovery plans of 2.000 pages.

3. Communication to the responsible decision-makers

As the procedure of recovery requires usually short-term decisions which are preceded by an immediate contact to the responsible decision-makers, such as the representatives of the management board, the owners or the supervisory authority or the investors, the recovery plan has to contain an emergency list which provides effective contacts. A regular update of the list is essential because of possible staff changes. Therefore, the EFBS welcomes art. 7 and supports its retention.

4. Costs of the recovery plan

The drawing up of a recovery plan and its regular review represent a not neglectable burden for smaller credit institutions, also when it comes to costs. Some can vary in proportion to the size and the complexity of the credit institution. Yet, the financial challenge for the credit institution is only partly alleviated because many costs linked to the development of a recovery plan emerge irrespectively of the complexity of the institution's business.