



10 June, 2013

**EBA Consultation on Draft Regulatory Technical Standards
On the content of recovery plans
(EBA/CP/2013/01)
BNP PARIBAS CONTRIBUTION**

Response sent by 11 June to: EBA
EBA-CP-2013-01@eba.europa.eu

BNP Paribas welcomes the opportunity to comment on the EBA Consultation on Draft Regulatory Technical Standards on the content of recovery plans, published on March 11, 2013.

GENERAL REMARKS

BNP Paribas supports the objective of creating a consistent international regime for financial institutions' recovery planning, as we deem that consistency will not only reduce the regulatory burden on banks, but also contribute effectively to global financial stability, by enabling authorities to carry out more efficiently analyses of different institutions' recovery plans and by harmonizing national supervisory practice. For this reason we are happy to observe that the standards for recovery plans proposed by EBA are aligned with the recommendations of the Financial Stability Board and with major international banking jurisdictions.

GROUP-LEVEL PLANNING

BNP Paribas strongly believes that recovery plans should be mainly produced at the group level, at least for large international institutions for two main reasons: we believe that even local shocks are better absorbed at central level where more diversified recovery options are available. Furthermore, the most far-reaching recovery actions may involve modification of the group's franchise, and therefore require a centralised approach.

Group-level planning may be carried out in consultation with home and host regulators, however interaction with host regulators should be dealt with by the home authority via Crisis Management Group activity. The requirement for local level recovery plans should therefore not be necessary. In circumstances where the subsidiary were under stress, but not its parent we would expect the parent to have the capacity to support the subsidiary, potentially by implementing recovery options in other parts of the group, and simultaneously, if deemed necessary, impose measures that could resemble recovery actions on its subsidiary.



CONFIDENTIALITY

BNP Paribas believes that the creation of a consistent international regime for financial institutions' recovery planning will facilitate communication between authorities, and improve cross-border co-operation and collaboration between Home and Host regulators. However we take this opportunity to reaffirm the case for confidentiality, given the high degree of strategic information contained in recovery plans. The internal sensitivity of this information should also not be underestimated. We therefore urge that specific protocols be put in place to guarantee that the duty of confidentiality be placed on those having access to recovery plans, and sanctions in case of breach.

These general remarks are in many instances more fully developed in our detailed responses on the following pages.

A handwritten signature in blue ink, appearing to read 'Jean-Jacques Santini', with a long horizontal stroke extending to the right.

Jean-Jacques Santini

BNP Paribas SA

Head of Group Public Affairs



DETAILED RESPONSES

Questions related to the draft RTS:

Q.01: 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?

Yes, BNP Paribas has been working on RRP since 2011. The first and second version of the RRP were approved by the relevant board committee, presented to the board of BNP Paribas, and submitted to its home regulator (ACP) at the end of 2011 and in August 2012 respectively. BNP Paribas is currently working on the third version of its RRP, which is expected to be delivered to ACP in August 2013.

All versions of the recovery plan have been prepared in compliance with FSB guidelines, and are essentially consistent with the structure and contents of the draft RTS. Version 3 has been further enriched to take account of the draft RTS. However, since the recovery plan is a part of an overall RRP package, some of the elements proposed in the draft RTS are, in our opinion, better associated with the Resolution part of the package, and have been dealt with in other sections of the RRP.

Q.02: 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 believe that the proposed draft RTS contain all relevant requirements and we do not think that any significant elements are missing. On the contrary, as outlined in our answer to Q.01, we believe that some elements of the draft RTS are over-detailed for the needs of recovery planning, and are better suited for Resolution planning or for other sections of the RRP.

We refer in particular to the elements contained in the Strategic analysis section (Art.6) which should more appropriately figure in a global RRP introduction, as detailed in our answer to Q.05.

Q.03: 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.

We agree that the process of recovery planning should be subject to approval at the most senior level, and have chosen to present a Recovery and Resolution Plan to the Internal Control, Risk Management and Compliance Committee of the board of BNP Paribas.

We do not agree with a possible requirement for the plan to be reviewed by an external auditor. Our RRP may, as for any other aspect of the Bank's activity, be subject to periodic internal audit. However this should not form part of the approval process. External audit appears to us to be entirely inappropriate. Recovery planning is a strategic exercise that calls upon hand-on knowledge of a group's business and market environment and contains highly sensitive information. We do not believe that it is the role of external auditors to issue opinions on strategy documents.

We also disagree with the requirements to identify the natural persons responsible for preparing,



implementing and updating the RRP. Recovery planning is a shared corporate responsibility, and we fail to see why and in what aim specific natural persons should be singled out.

Q.04: 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)

We consider recovery planning to be complementary to existing internal risk management planning such as ICAAP and ILAAP. Governance arrangements for these three issues will naturally be similar as the aim is to ensure escalation to senior management at the appropriate point of time. It is the result that matters, not the governance leading to this result.

Q.05: 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)

As outlined in our answer to Q.02, most of the elements required in this section are better associated with the Resolution elements of RRP, or should rather figure in a global RRP introduction.

Much of what is contained in the section relating to “Description of the institution” is of limited relevance in the context of recovery action, in particular detailed mapping of legal entities and business lines, financial elements by legal entity. We do not see the relevance of a description of critical or systemically relevant functions within a recovery plan, which should rather consist of a menu of recovery options available for use with management judgment according to specific situations, and does not deal with maintenance of critical functions.

Q.06: 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 possible range of recovery measures are adequately covered in the draft RTS 6 (4) and 6 (5), but authorities should beware of being overly prescriptive. Banks and banking groups differ in their legal structures, business lines, and funding structures, and will therefore have greater or lesser appetites for specific types of options.

We agree on the notion of recovery options as measures which are extraordinary in nature and which are not supposed to be taken in the course of the institution’s normal business.

We are sceptical on the possibility of achieving a voluntary restructuring of liabilities without creating the conditions for an entry into resolution.

Finally, while agreeing on the fact that recovery planning must take into account continuity of operations, we believe that this is part of feasibility analysis, and the requirement of an operational contingency plan for each recovery option appears excessive.



Q.07: Please provide your views on the requirements for the communication plan, as stipulated in the draft RTS under Article 7.

We underline the need to keep the information regarding recovery action strictly confidential. In order to prevent any negative and unwelcomed market reaction, market participants should not be informed that a bank has triggered its recovery plan. Public disclosure of trigger breach or the entry into recovery could further weaken any firm subject to the requirement and could precipitate a crisis. However, we agree on the need to adequately communicate the implementation of recovery options as these take place, and therefore that the recovery plan should include a section dealing with communication, both internal and external, which should outline responsibilities for drawing up appropriate and proportionate communication at the time at which recovery actions are implemented.

However, we do not see the merit of a detailed communication plan for each and every option, providing an assessment of the potential impact on the business and on financial stability in general. Actually we believe that such a requirement is excessive. An overall communication strategy to be adapted to the specific circumstances of an actual crisis should be adequate.

The assessment of the potential impact on the business and on financial stability in general of the implementation of a recovery option is not an issue for a communication plan. It is part of an impact and feasibility assessment referred to in art. 6(5)b.

Q.08: 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 the identification of potential preparatory measures is part of robust recovery planning and should be taken into account in the analysis of recovery options. However we think that any suggestion of prior implementation of preparatory measures as mentioned in art. 8 would be an excessive burden for institutions that have a wide and diversified variety of recovery options available.

Concerning the reference to actions aimed at removing obstacles, we would like to emphasise the fact that recovery planning must not become the primary focus of management or the driver of changes to the organisation.

Questions related to the impact assessment

Q.09: 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?

We partially agree on that. We think it is true that, especially for more complex institutions, some of the costs are already incurred by the RMF requirements (this is true with reference to costs related to production of information/data at group and at entity level). However we believe that such costs might disproportionately increase particularly with the introduction in the regulatory framework of some regulatory requirements such as the need to create recovery plans at entity level, which would have a



clearly detrimental effect on costs for no visible benefit to our group.

Q.10: 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?

Yes, we agree in particular with the benefits of a consistent international regime for financial institutions' RRP in terms of positive repercussions on the exchange of information between authorities and reduction of the burden for cross-border groups.

Q.11: 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?

Yes we agree with regard to costs of producing a group recovery plan. Were we to be subject to the requirement to produce recovery plans at local entity level, this would significantly increase costs with no additional benefits.

Q.12: 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?

Yes.