



## Regulation of the Financial Market Authority (FMA) on the content and level of detail of recovery plans of banks (BaSAPV; Bankensanierungsplanverordnung)

### Bank Recovery Plan Regulation (BaSaPV)

Federal Law Gazette II No. 98/2025

Based on Article 4 paras. 1 and 2 in conjunction with Article 4 para. 3 of the Bank Recovery and Resolution Act (BaSAG; *Bundesgesetz über die Sanierung und Abwicklung von Banken*), published in Austrian Federal Law Gazette I No. 98/2014 most recently amended by Federal Act in Austrian Federal Law Gazette I No. 112/2024, the following shall be determined by Regulation:



## TEXT

### SCOPE OF APPLICATION

**Article 1.** (1) This regulation is applicable to entities as defined in Article 1 para. 1 nos. 1 and 4 BaSAG, which are not subject to direct supervision by the European Central Bank pursuant to Article 6 (4) of Council Regulation (EU) No. 1024/2013.

(2) By way of derogation from para. 1 this regulation shall not be applicable to entities, in the event that the specifications pursuant to Article 4 paras. 1 and 2 BaSAG have been established by means of a legally binding administrative decision.

### DEFINITION OF TERMS

**Article 2.** For the purposes of this Regulation the following definitions shall apply:

1. Category 1 entities:
  - a. Institutions pursuant to Article 2 no. 23 BaSAG, which are obliged to draw up a recovery plan pursuant to Article 8 para. 1 BaSAG, and whose total assets based on the most recent audited annual financial statement do not exceed EUR 500 million; or
  - b. EU parent undertakings pursuant to Article 2 no. 84 BaSAG, which are obliged to draw up a group recovery plan pursuant to Article 15 para. 1 BaSAG, if their consolidated total assets based on the most recent audited annual financial statement do not exceed EUR 500 million.
2. Category 2 entities:
  - a. Institutions pursuant to Article 2 no. 23 BaSAG, which are obliged to draw up a recovery plan pursuant to Article 8 para. 1 BaSAG and are not category 1 institutions, as long as
    - aa) their total assets based on the most recent audited annual financial statement exceeds EUR 5 billion,
    - bb) their foreign business based on the most recent audited annual financial statement does not exceed 30% of the balance sheet totals on either the assets or liabilities side, and
    - cc) their interbank business based on the most recent audited annual financial statement does not exceed 50% of the balance sheet totals on either the assets or liabilities side; or
  - b. EU parent undertakings pursuant to Article 2 no. 84 BaSAG, which are obliged to draw up a group recovery plan pursuant to Article 15 para. 1 BaSAG and are not category 1 institutions, as long as
    - aa) the total assets of the group based on the most recent audited annual financial statement do not exceed EUR 5 billion,
    - bb) the foreign business of the group based on the most recent audited annual financial statement does not exceed 30% of the balance sheet totals, and

- cc) the interbank business of the group based on the most recent audited annual financial statement does not exceed 50% of the balance sheet totals.
3. Category 3 entities:
    - a. Institutions that are obliged to draw up a recovery plan pursuant to Article 8 para. 1 BaSAG and do not qualify for category 1 or 2; or
    - b. EU parent undertakings that are obliged to draw up a group recovery plan pursuant to Article 15 para. 1 and do not qualify for category 1 or 2.
  4. Category 4 entities: Central institutions of institutional protection schemes pursuant to Article 113 (7) of Council Regulation (EU) No. 575/2013, which are obliged to draw up a group recovery plan pursuant to Article 6 para. 2 in conjunction with Article 15 para. 1 BaSAG.

### PROPORTIONALITY

**Article 3.** (1) Recovery plans and group recovery plans of entities pursuant to Article 1 must conform to the requirements set pursuant to Articles 8 to 10 and Articles 15 and 16 BaSAG and the Annex to Article 9 BaSAG with the following restrictions:

1. Category 1 entities:
  - a. Article 9 para. 2 BaSAG shall be applied with the proviso that the recovery plan shall contain a systemic scenario;
  - b. Article 10 para. 1 BaSAG shall be applied with the proviso that the recovery plan shall contain the following indicators;
    - aa) Common Equity Tier 1 capital ratio pursuant to point (a) of Article 92 (2) of Regulation (EU) No 575/2013,
    - bb) Tier 1 capital ratio pursuant to point (b) of Article 92 (2) of Regulation (EU) No 575/2013,
    - cc) Total capital ratio pursuant to point (c) of Article 92 (2) of Regulation (EU) No 575/2013,
    - dd) Leverage ratio pursuant to Article 429 of Regulation (EU) No 575/2013,
    - ee) Liquidity coverage requirement (liquidity coverage ratio) pursuant to Article 412 of Regulation (EU) No 575/2013,
    - ff) Net stable funding ratio pursuant to Article 413 of Regulation (EU) No 575/2013,
    - gg) Return on total assets or return on equity,
    - hh) Growth rate of non-performing loans.

In the event that the indicators pursuant to sublis. aa, bb and cc correspond to one another, it shall suffice to include the indicator pursuant to sublit. cc; if only the indicators pursuant to sublis. aa and bb correspond to one another, it shall suffice to include the indicators pursuant to sublis. bb and cc. If only the indicators pursuant to sublis. bb and cc correspond to one another, it shall suffice to include the indicators pursuant to sublis. aa and cc.

- c. By way of derogation from lit. b, Article 10 para. 1 BaSAG shall apply for CRR investment firms pursuant to Article 2 no. 3 BaSAG that are category 1 entities, subject to the proviso that the recovery plan shall be required to contain the indicators:
- aa) Common Equity Tier 1 capital ratio pursuant to point (a) of Article 9 (1) of Regulation (EU) No 2019/2033,
  - bb) Tier 1 capital ratio pursuant to point (b) of Article 9 (1) of Regulation (EU) No 2019/2033,
  - cc) Total capital ratio pursuant to point (c) of Article 9 (1) of Regulation (EU) No 2019/2033,
  - dd) Liquidity coverage requirement pursuant to Article 43 (1) of Regulation (EU) No 2019/2033,
  - ee) Return on assets or return on equity,
  - ff) Rate of increase of value impairments of material assets,
  - gg) Changes in exposures from business model risks that may lead to material deteriorations in results.

In the event that the indicators pursuant to sublis. aa, bb and cc correspond to one another, it shall suffice to include the indicator pursuant to sublit. cc; if only the indicators pursuant to sublis. aa and bb correspond to one another, it shall suffice to include the indicators pursuant to sublis. bb and cc. If only the indicators pursuant to sublis. bb and cc correspond to one another, it shall suffice to include the indicators pursuant to sublis. aa and cc.

2. Category 2 entities:
- a. Article 9 para. 2 BaSAG shall be applied with the proviso that the recovery plan shall contain a systemic and an idiosyncratic scenario;
  - b. Article 10 para. 1 BaSAG shall be applied with the proviso that the recovery plan shall contain the indicators pursuant to no. 1 lit. b;
  - c. By way of derogation from lit. b, Article 10 para. 1 BaSAG shall apply for CRR investment firms pursuant to Article 2 no. 3 BaSAG that are category 2 entities, subject to the proviso that the recovery plan shall be required to contain the indicators pursuant to no. 1 lit. c.
3. Category 3 entities:
- a. Article 9 para. 2 BaSAG shall be applied with the proviso that the recovery plan shall contain a systemic and an idiosyncratic as well as a combined system-idiosyncratic scenario;
  - b. Article 10 para. 1 BaSAG shall be applied with the proviso that the recovery plan shall contain the indicators pursuant to no. 1 lit. b as well as an additional indicator from each of the following areas: profitability and asset quality;
  - c. By way of derogation from lit. b, Article 10 para. 1 BaSAG shall apply for CRR investment firms pursuant to Article 2 no. 3 BaSAG that are category 3 entities, subject to the

proviso that the recovery plan shall be required to contain the indicators pursuant to no. 1 lit. c as well as an additional indicator from the areas of profitability and asset quality.

(2) Category 3 entities may submit a reasoned application that only the scenarios and indicators listed in para. 1 no. 2 must be contained in their recovery plan. The application is to be accepted, if such a reduction is deemed appropriate on the grounds of the type, scope and complexity of the entity making the application's business activities, its shareholding structure, its legal form and its risk profile.

(3) Category 4 entities shall be excluded in any case from the application of the simplified obligations pursuant to para. 1.

### **TIMING FOR INITIAL SUBMISSION FOR THE RECOVERY PLAN**

**Article 4.** Entities shall draw up the recovery plan for the first time at latest six months from date of the granting of the licence becoming legally effective and to submit it to the FMA. As soon as an audited annual financial statement exists, the recovery plan shall be updated based on these figures and submitted to the FMA

1. in the case of category 1, 2 and 3 entities at latest by 31 December following the end of the financial year, and
2. in the case of category 4 entities at latest by 30 September following the end of the financial year. Once a recovery plan has been submitted based on the figures from the latest audited annual financial statement, the recovery plan shall be required to be updated in accordance with Article 5 and submitted to the FMA.

### **TIMING AND FREQUENCY OF RECOVERY PLAN UPDATES**

**Article 5.** Without prejudice to the second sentence of Article 11 para. 1 BaSAG, the following provisions shall apply regarding the frequency of updating the recovery plan:

1. Category 1 entities are required to update the recovery plan every three years and submit the updated recovery plan to the FMA by 31 December at the latest.
2. Category 2 and 3 entities are required to update the recovery plan every two years and submit the updated recovery plan to the FMA by 31 December at the latest.
3. Category 4 entities are required to update the recovery plan annually and submit the updated recovery plan to the FMA by 30 September at the latest.

### **REFERENCES**

**Article 6.** Unless instructed otherwise in individual cases, the following shall apply to references to legal acts in this Regulation:

1. where reference is made to provisions in the Bank Recovery and Resolution Act (BaSAG; *Sanierungs- und Abwicklungsgesetz*), published in Federal Law Gazette I no. 98/2014, the version amended by Federal Act in Federal Law Gazette I no. 112/2024 shall apply;

2. where reference is made to provisions in Regulation (EU) No 1024/2013, this relates to Regulation (EU) no. 1024/2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions, OJ L 287, 29.10.2013, p. 63, in the version of the corrigendum in OJ L 218, 19.08.2015, p. 82;
3. where reference is made to provisions in Regulation (EU) No 575/2013, this relates to Regulation (EU) no. 575/2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012, OJ L 176, 27.06.2013, p. 1, in the version amended by Regulation (EU) 2024/2987, OJ L 2024/2987, 04.12.2024;
4. where reference is made to provisions in Regulation (EU) No 2019/2033, this relates to Regulation (EU) 2019/2033 on prudential requirements for investment firms and amending Regulations (EU) No. 1093/2010, (EU) No. 575/2013, (EU) No. 600/2014 and (EU) No 806/2014, OJ L 314, 05.12.2019, p. 1, in the version amended by Regulation (EU) 2023/2869, OJ L 2023/2869, 20.12.2023.

## **ENTRY INTO FORCE**

**Article 7.** (1) This regulation shall enter into force on the following day after publication.

(2) Articles 1 and 2, Article 3 para. 1 no.1 lit. b and para. 3, Article 4 no. 2 as well as Article 5 para. 2 in the version of the Regulation amended in Federal Law Gazette II No. 76/2016 shall enter into force on 15 April 2016.

(3) Article 1 para. 1, Article 2 no. 1 lit. a and b, Article 2 no. 1 lit. a sublits. bb and cc, Article 3 para. 1 no. 1 lits. b and c, Article 3 para. 1 no. 2 lit. c, Article 3 para. 1 no. 3 lits. b and c as well as Articles 4 to 6 including headings in the version of the Regulation amended in Federal Law Gazette II No. 98/2025 shall enter into force upon expiry of the day of publication. By way of derogation from Article 5 nos. 1 and 2, category 1, 2 and 3 entities that were already required to submit a recovery plan prior to 1 January 2025, are required to update and next resubmit it at the latest by 31 December 2026 in the case of entities in categories 1 and 2, and at the latest by 31 December 2025 in the case of category 3 entities.