

EBA/REC/2017/02

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26/01/2018

# Recommendation on the coverage of entities in the group recovery plan

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# 1. Compliance and reporting obligations

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## Status of this recommendation

1. This document contains recommendations issued pursuant to Article 16 of Regulation (EU) No 1093/2010<sup>1</sup>. In accordance with Article 16(3) of Regulation (EU) No 1093/2010, competent authorities and financial institutions must make every effort to comply with the recommendations.
2. Recommendations set out the EBA's view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. Competent authorities as defined in Article 4(2) of Regulation (EU) No 1093/2010 to whom recommendations apply should comply by incorporating them into their practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where recommendations are directed primarily at institutions.

## Reporting requirements

3. In accordance with Article 16(3) of Regulation (EU) No 1093/2010, competent authorities must notify the EBA that they comply or intend to comply with these recommendations, or otherwise give reasons for non-compliance, by 26.03.2018. In the absence of any notification by this deadline, competent authorities will be considered by the EBA to be non-compliant. Notifications should be sent by submitting the form available on the EBA website to [compliance@eba.europa.eu](mailto:compliance@eba.europa.eu) with the reference 'EBA/REC/2017/02'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities. Any change in the status of compliance must also be reported to the EBA.
4. Notifications will be published on the EBA website, in line with Article 16(3).

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<sup>1</sup> Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, (OJ L 331, 15.12.2010, p.12).

## 2. Subject matter, scope and definitions

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### Subject matter

5. This recommendation specifies how legal entities and branches (entities or group entities) should be covered in the group recovery plan, drawn up and submitted in accordance with Articles 5 to 9 of Directive 2014/59/EU<sup>2</sup>, Articles 3 to 21 of Commission Delegated Regulation (EU) No 2016/1075<sup>3</sup>, EBA/GL/2015/02 on recovery plan indicators<sup>4</sup> and EBA/GL/2014/06 on the range of recovery plan scenarios<sup>5</sup>.

### Addressees

6. These recommendations are addressed to competent authorities as defined in Article 4(2) (i) of Regulation (EU) No 1093/2010 and in particular to the consolidating supervisor and the competent authorities referred to in Articles 5 to 9 of Directive 2014/59/EU for the purposes of the group recovery planning.
7. These recommendations are addressed to credit institutions as defined in Article 4(1) (1) of Regulation (EU) No 575/2010; mixed financial holding companies as defined in Article 4(21) of Regulation (EU) No 575/2013; and investment firms as defined in Article 4(1)(1) of Directive 2014/65/EU, and in particular to the Union parent undertakings and to the relevant group entities within the scope of prudential consolidation.

### Scope of application

8. These recommendations apply to group recovery plans of groups under a parent undertaking established in the EU.
9. Competent authorities should ensure that credit institutions, mixed financial holding companies and investment firms, as referred to in paragraph 7, as well as financial holding companies, as defined in Article 4(20) of Regulation (EU) No 575/2013, comply with this recommendation.

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<sup>2</sup> OJ L 173/190

<sup>3</sup> OJ L 184/1

<sup>4</sup> Available at [https://www.eba.europa.eu/documents/10180/1147256/EBA-GL-2015-02\\_EN+Guidelines+on+recovery+plan+indicators.pdf/485181d4-f8f1-4604-9a78-17a12164e793](https://www.eba.europa.eu/documents/10180/1147256/EBA-GL-2015-02_EN+Guidelines+on+recovery+plan+indicators.pdf/485181d4-f8f1-4604-9a78-17a12164e793)

<sup>5</sup> Available at <https://www.eba.europa.eu/documents/10180/760136/EBA-GL-2014-06+Guidelines+on+Recovery+Plan+Scenarios.pdf>

## Definitions

10. Unless otherwise specified, terms used and defined in Directives 2014/59/EU and 2013/36/EU and in the acts referred to in paragraph 5, have the same meaning in these recommendations.

# 3. Implementation

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## Date of application

11. These recommendations apply from 1 January 2018.

12. Only as far as the first initial recovery plan submission after the date of application of this recommendation is concerned, the consolidating supervisor and the competent authorities involved in the joint decision process referred to in Article 8 of Directive 2014/59/EU may decide not to apply paragraph 58 of this recommendation, where the following conditions are satisfied:

- (a) individual plans are deemed necessary to ensure a smooth migration to the group recovery plan of the recovery planning information currently available at the local level; and
- (b) these individual plans are communicated to the consolidating supervisor and are fully consistent with the group recovery plan.

# 4. Identification of group entities

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13. For the purposes of the group recovery plan, the Union parent undertaking should identify all group entities, falling within the scope of prudential consolidation, including their branches. For group entities established in a third country, their coverage in the group recovery plan should also take into account, as appropriate, the applicable regime for recovery planning in the country of their establishment.

14. Institutions should identify branches that are relevant for the group or for the economy including for the financial system of one or more Member States, and subsequently cover them in accordance with Section 6, either as part of the legal entity that they belong to, or independently, where that is deemed appropriate on the basis of the structure of the group. This should take into account monitoring, escalation and decision-making procedures as well as the implementation of the recovery options. In the former case the coverage of that legal entity

also needs to include, where appropriate, the specific information related to the branch. The Union parent undertaking should in both cases ensure that any branch-specific information necessary as per Section 6 is effectively included in the group recovery plan.

15. Branches that have been identified as significant –plus in accordance with the EBA-GL-2017-14 should be covered in the group recovery plan as a material entity, being relevant either for the group or for the local economy.
16. Branches which are not material because they are not relevant for the group nor for the economy of any Member State need not be identified in the group recovery plan separately from the legal entity to which they belong.
17. Similarly, entities that are designated as O-SII (Other-Systemically Important Institutions), should also be individually and specifically covered in the group recovery plan being either group relevant entities or locally relevant entities.
18. The Recommendation addresses the coverage of entities within a group recovery plan for groups under a Union parent undertaking. Given this, branches of institutions that have their head office in a third country, are outside the scope of application of this recommendation. However, within the regular supervisory cooperation among competent authorities, EU authorities can collaborate with non-EU authorities in order to ensure that appropriate procedures are in place to deal with potential financial distress of non-EEA branches, especially if this can have a significant impact on the financial stability of a Member State or the EU as a whole.

## 5. Classifying entities and branches

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19. On the basis of the strategic analysis performed in accordance with Article 7 of Commission Delegated Regulation (EU) No 2016/1075, and in particular on the basis of the mapping of the core business lines and critical functions<sup>6</sup> to the legal entities and branches of the group in accordance with paragraph 1 (b) of that article, the Union parent undertaking should ensure that the group entities identified as per this section are classified into the following categories:

- (a) entities that are relevant for the group ('group-relevant entities');
- (b) entities that are relevant for the economy, including for the financial system, of one or more Member States ('locally relevant entities'); and
- (c) entities that are not relevant for the group or for the economy of any Member State.

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<sup>6</sup> See also COM DR 1075/2016 on definition of Critical Functions and Core Business Lines

20. The Union parent undertaking should designate as relevant for the group any entity that meets one or more of the conditions of Article 7 (2) (a-e) of Commission Delegated Regulation (EU) 2016/1075, regardless of the relevance of this entity for the economy, including for the financial system, of any Member State.
21. The Union parent undertaking should designate as relevant for the economy, including for the financial system, of one or more Member States any entity that, without being -relevant for the group in the meaning of the previous paragraph, is nevertheless, on account of the critical functions which it performs as per the mapping referred to in Article 7 (1) (b) of Commission Delegated Regulation (EU) No 2016/1075, important for the economy, including for the financial system, of one or more Member States<sup>7</sup>.
22. The Union parent undertaking should designate as relevant neither for the group nor for the economy of any Member State, any group entity falling outside the categories referred to in the previous two paragraphs.
23. The Union parent undertaking should ensure that the coverage of group entities in the group recovery plan is carried out in a way that results in a single, complete, integrated and fully consistent recovery plan for the group as a whole.
24. The Union parent undertaking should involve the management of those group entities that have been designated as material being group or locally relevant, both in the preparation and in the approval phase of the group recovery plan. The Union parent undertaking should ensure that the relevant management is well aware of the group recovery plan, has provided relevant input and is committed to its implementation.

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<sup>7</sup> The analysis of Critical Shared Services (CSS) can be useful to define critical functions. For an extensive review and guidance, see the EBA Technical advice on the identification of critical functions and core business lines

## 6. Coverage of entities in the group recovery plan

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### 6.1 Group-relevant entities

25. The Union parent undertaking should ensure that all group relevant entities are adequately addressed in an extensive and detailed manner, in all sections of the group recovery plan, and in accordance with the following paragraphs.

#### a. GOVERNANCE

26. Governance arrangements and escalation procedures should be elaborated in such a way as to describe the decision-making process across the group. This should be ensured in a way that enables competent authorities to see the flow of decision-making and decision-execution processes and the input that is to be provided for informing the decisions, both with respect to the flow of information from the parent undertaking to the entities and vice versa.

27. The group recovery plan should provide clarity on its development, adoption, review and update, including the involvement of functions at the level of the subsidiaries and the coordination with the corresponding functions of the Union parent undertaking. Furthermore, it should be ensured that the management of the entity is adequately involved in the decision on the group plan, at least concerning the parts relevant for that particular entity.

28. The group recovery plan should also clarify how the conditions and procedures necessary to ensure the timely implementation of recovery options at the level of relevant entities are coordinated with those at the Union parent undertaking level. It should be ensured, to the extent possible in accordance with local regulations, that both the parent undertaking and the relevant entities operate in line with the group recovery plan, to avoid misaligned and inconsistent actions.

29. While assessing the group recovery plan, competent authorities should be able to quickly identify the consistency of internal escalation and decision-making processes that apply when recovery indicators have been met. Thus, governance arrangements and escalation procedures should be adequately specified for all entities for which the recovery plan contains (entity-level) recovery indicators. In particular, the recovery plan should describe how timely and adequate notification of the consolidating supervisor and the competent authorities of subsidiaries and branches will be ensured.

30. Finally, adequate information should be provided on the level of interconnectedness of these entities with the rest of the group, the economy and the financial system of their respective Member States.

## b. INDICATORS

31. For group-relevant entities, recovery indicators should be considered at entity-specific level, e.g. depending on the business and governance model of the group. If such entity-specific indicators are considered relevant, they should be included in the group recovery plan, in addition to those specified at the group level to which the EBA Guidelines on recovery indicators apply<sup>8</sup>. Such indicators should be appropriately chosen and calibrated to reflect the specificities of the entities and should be accompanied by appropriate escalation procedures.

32. In addition, the group recovery plan should consider relevant entity-specific recovery plan indicators for entities that support core business lines and critical functions.

## c. OPTIONS

33. The group recovery plan should include a sufficient number of credible options that could restore the group and its entities to viability following a stress situation. This may include, where appropriate, the orderly divestment of an entity identified as group relevant or locally relevant. Where an entity carries out critical functions, the Union parent undertaking should clarify how any critical functions provided by that entity will be preserved during the divestment process.

34. The choice of appropriate recovery options among group-wide or entity-specific actions should be consistent with how the group is organised both in terms of its business model, internal governance and, where relevant, local regulatory requirements. To that end, the group recovery plan should include an estimate of the possible impact that the implementation of each recovery option is expected to have, not just on the entity where the option is activated, but on all potentially affected group-relevant entities. It should have a particular focus on the implications for the continuity of the critical functions and other group interdependencies.

35. This includes an analysis of any internal and/or external communication needs, resulting in a communication plan as part of the implementation of each option where appropriate.

## d. SCENARIOS

36. While the need to design separate and specific scenarios for these entities should proportionately depend on the business model of the group, the impact of group-wide or local scenarios on group-relevant entities should be clearly set out in the group recovery plan.

37. Where the business model of a group-relevant entity is unique and there is little interaction between entities, so that a group-wide scenario would not capture all risks involved, then entity-specific scenarios might be included as far as appropriate in the group recovery plan. Where core business lines and critical functions performed by such entities are already covered by group scenarios, it is not necessary to design separate scenarios for those group-relevant entities.

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<sup>8</sup> See [EBA Guidelines on the minimum list of qualitative and quantitative recovery plan indicators](#)



38. When appropriate, the group recovery plan might also include one scenario where economic or financial distress is generated at the level of the Member State of the individual entity, but then spreads to the group, and might prevent the Union parent undertaking from supporting the individual entity.

## 6.2 Locally relevant entities

39. For locally relevant group entities, the group recovery plan should focus on restoring the financial position and ensuring operational continuity, thereby ensuring that critical functions are preserved in the event of distress. To that end, all critical functions of these entities should be identified in the group recovery plan.

### a. GOVERNANCE

40. The focus for the locally relevant entities in the group recovery plan should be on the escalation procedures, differentiating between instances when it is necessary to move the decision-making process from the entity to the Union parent undertaking and when the parent is informed of but not involved in the decisions. Governance arrangements and escalation procedures should be described for all the entities for which recovery plan indicators at entity level are considered necessary. Specifying governance arrangements (as per Article 5(1)(a) of Commission Delegated Regulation (EU) No 2016/1075) for the development and maintenance of the plan in respect of the individual entity should not be considered necessary<sup>9</sup>, except where a different assessment is made in the context of the joint decision process referred to in Article 8 of Directive 2014/59/EU.

41. The group recovery plan should include enough information on internal escalation and decision-making procedures and on the consistency between governance arrangements, allowing the possibility for the recovery plan to be activated, both at level of the group entity and at the level of the Union parent undertaking. Where, in accordance with the plan, activation can also take place at the level of the group entities, the local management of these entities should also be involved in the decision-making process, and such evidence should be included in the plan<sup>10</sup>.

42. The group recovery plan should also provide clarity on the ability of the group to effectively implement recovery options at the local level where necessary, as well as on those options that are implemented at the group level but have an impact on local critical functions. The recovery plan should give information on the conditions under which the group management can effectively implement recovery options at the local level and, where relevant, how local management and local competent authorities are involved. Furthermore, it should be ensured

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<sup>9</sup> The fact that governance arrangements for maintenance and update of the recovery plan may not be deemed necessary does not absolve the institution from submitting the recovery plan according to the provisions set out in Articles 5-8 of the BRRD

<sup>10</sup> Involvement of local management can take different forms, e.g. local approval of the group recovery plan, non-binding opinions, etc

that the management of the entity is adequately involved in drafting the group plan, at least concerning the parts relevant to the specific entity.

#### b. INDICATORS

43. For the purposes of the group recovery plan, the inclusion of indicators for entities to which critical functions are mapped should be considered.

44. Where the inclusion of entity-specific indicators, as referred to in the previous paragraph, has been considered necessary, such indicators should be appropriately calibrated to reflect the specificities of the entities as well as any residual entity-specific risks, and be accompanied by appropriate escalation procedures.

#### c. OPTIONS

45. The group plan should include a sufficient amount of credible options that could restore the group and its entities to viability following a stress situation. This may include where appropriate, the orderly divestment of an entity identified as locally relevant. Where an entity carries out critical functions the Union parent undertaking should clarify how any critical functions provided by that entity will be preserved during the divestment process.

46. The choice of appropriate recovery options among group-wide or entity-specific actions should be consistent with the objective to preserve critical functions provided by the entity taking into account how the group is organised in terms both of its business model and internal governance and, where relevant, local regulatory requirements. To that end, the group recovery plan should include an assessment of key recovery options with a particular focus on the implications for the continuity of the critical functions, taking into account all relevant group interdependencies.

#### d. SCENARIOS

47. Specific scenarios relating to the locally relevant entity should not be considered as necessary, as long as the impact of group-wide scenarios is also deemed significant for these entities.

48. If relevant, the group recovery plan might also include one scenario where economic distress is generated at the level of the Member State of the individual entity, but then spreads to the group, and might prevent the Union parent undertaking from supporting the individual entity.

49. It should be ensured that the group-wide scenarios allow the Union parent undertaking, the locally relevant entity and the competent authorities to assess the impact of distress in their jurisdictions, to the extent relevant.

## 6.3 Entities not relevant for the group or the economy of a Member State

50. Coverage of those entities in the group recovery plan should be concise, for example by means of a chart or table, and should focus on information necessary to identify those entities and briefly describe their position in the group's overall strategy. To this end, the plan should, where appropriate and in a general manner, ensure that governance arrangements allow information on a distress situation at the local level to be swiftly transmitted upwards to the parent undertaking and the relevant competent authority and vice versa. Any significant impacts of recovery options on these entities should generally be noted in the group recovery plan, where appropriate, taking into account the group structure.

# 7. Monitoring coverage of group entities

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51. When reviewing (assessing) the group recovery plan in accordance with the joint decision process referred to in Article 8 of Directive 2014/59/EU, the consolidating supervisor should ensure that group entities are identified and covered in the group recovery plan in accordance with this recommendation.

52. Where the set of entities identified in the group recovery plan differ from the information that the consolidating supervisor has on the basis of the mapping conducted and updated in accordance with Article 2 of Commission Delegated Regulation (EU) No 2016/98<sup>11</sup> and Article 2 of Commission Implementing Regulation (EU) No 2016/99<sup>12</sup>, the consolidating supervisor should ask the Union parent undertaking to clarify and, where appropriate, to remedy the inconsistency.

53. When assessing how the information about the different entities of a group is actually organized and presented within the group recovery plan, the consolidating supervisor and the competent authorities involved in the joint decision should take into account the particular business model of the group and the consequent resolution strategy (i.e. SPE, Single Point of Entry or MPE, Multiple Point of Entry). While the degree of integration of information on individual entities with the rest of the plan might differ, institutions should always ensure that the information provided is consistent throughout the plan.

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<sup>11</sup> OJ L 21/2

<sup>12</sup> OJ L 21/2

54. Where the coverage of entities in the group recovery plan is not in accordance with these recommendations, the consolidating supervisor and the competent authorities involved in the joint decision process referred to in Article 8 of Directive 2014/59/EU should seek to ensure that this lack of information is duly noted in the joint decision document together with the agreed timeline for that shortfall to be rectified by the Union parent undertaking.
55. The consolidating supervisor should take into consideration the views of the competent authorities involved in the joint decision process for the assessment of the group recovery plan in order to reflect their concerns regarding the adequate coverage of certain entities. In particular, the consolidating supervisor should duly take into account the opinion of the competent authority of the Member State in which a group or locally relevant entity is established, on the lack of coverage of entities in the group recovery plan.
56. The findings on a lack of coverage included in the joint decision document should be communicated by the consolidating supervisor to the Union parent undertaking together with all the necessary steps and the relative timeline that the Union parent undertaking should take in order to rectify that deficiency in subsequent updates of the group recovery plan. The feedback received from the Union parent undertaking should be communicated to the competent authorities involved in the joint decision process.
57. In severe cases, the consolidating supervisor and the competent authorities should endeavour to assess whether or not the lack of coverage referred to in paragraph 54 should be considered as a material deficiency of the group recovery plan: in such an occurrence, the process outlined in Article 6(5) and 6(6) of the BRRD should be followed.
58. Without prejudice to paragraph 12, the consolidating supervisor and the competent authorities involved in the joint decision process referred to in Article 8 of the BRRD should not request the submission of individual plans for the sole purpose of addressing insufficient coverage of entities in the group recovery plan as referred to in the previous paragraphs.
59. The EBA should monitor the implementation of this recommendation, to assess the improvement in achieving consistent and efficient recovery planning arrangements for EU institutions. To this extent, competent authorities should provide the EBA with the relevant information needed for this monitoring.