

Policy Statement | PS8/13

Recovery and resolution plans

December 2013



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY



Prudential Regulation Authority
20 Moorgate
London EC2R 6DA

Prudential Regulation Authority, registered office: 8 Lothbury, London EC2R 7HH.
Registered in England and Wales No: 07854923



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1. A core aspect of the Prudential Regulation Authority's (PRA's) approach is that it will ensure preparedness for either recovery or orderly resolution of a failing firm. This PRA policy statement contains final rules on recovery and resolution planning and two accompanying supervisory statements. Together these documents set out the PRA's recovery and resolution planning (RRP) framework for banks and PRA-regulated investment firms. This statement provides an update on the PRA's approach to recovery and resolution.

2. In CP11/16 the Financial Services Authority consulted on RRP proposals; feedback from this consultation was published in FS12/1. The final rules are positioned at a high level so that they should remain applicable as our policy develops and the domestic and international context evolves. The rules come into force on 1 January 2014.

Recovery

3. The PRA expects firms to maintain recovery plans, outlining credible recovery actions that they could implement in the event of severe stress to restore their business to a stable and sustainable condition.

4. The recovery supervisory statement has not been amended significantly from the earlier version in FS12/1. Below are key areas in which the PRA's expectations have changed.

- The supervisory statement emphasises that firms should identify actions that should be taken to improve the credibility and effectiveness of the recovery plan.
- The requirement to automatically submit a remediation plan on meeting recovery triggers pre-agreed with the PRA has been removed.

5. The EU Bank Recovery and Resolution Directive (BRRD), which is under negotiation, may mandate the European Banking Authority to produce binding technical standards or guidelines covering the content of recovery plans, and our domestic arrangements may need to be aligned accordingly. In the meantime, firms should continue to follow the guidelines in the supervisory statement.

Resolution

6. The PRA is aiming for a position where the failure of any firm is orderly: this means that in the event of failure, it will be feasible to resolve that firm without severe systemic disruption and without exposing taxpayers to loss, while protecting vital economic functions and imposing losses on bank creditors. RRP information is key to achieving this objective. It will be used to develop firm resolution strategies, assess a firm's

current level of resolvability against the strategy, and to inform work on identifying barriers to the implementation of operational resolution plans. Removal of resolution barriers will be considered as part of the PRA's supervisory strategy for the firm.

7. Resolution planning experience over the past 18 months has led the PRA to revise its approach to the collection of resolution-related information. The resolution supervisory statement is organised in two phases. In Phase 1, the firm should provide basic information on its financial, legal and operational structure, as well as the economic functions that it performs (similar to previous Modules 3 and 4). This information provides the basis for the authorities' decision on the preferred resolution strategy.

8. If necessary, further information needed to support the authorities' preferred resolution strategy and preparation of the resolution plan is requested in Phase 2. The information requested will be dependent on the preferred strategy and the particular resolution challenges the firm presents. It will therefore be tailored to the individual firm and the risks it poses, and the burden on firms will be proportionate to the expected benefit to financial stability. Further explanation of this process is set out in the resolution supervisory statement.

9. Firms should also expect the PRA to request additional information where this is necessary to support resolution planning for that firm. Given that the circumstances of failure are unknown, firms may be required to prepare for more than one resolution strategy.

10. The resolution supervisory statement also includes a section to meet the PRA's need for information as a firm approaches resolution. This section puts firms on notice that such information may be requested at short order if the PRA considers it necessary. Firms will only need to provide this information if requested from supervisors.

11. Firms should be aware that the content of the supervisory statement is likely to evolve over time to reflect ongoing policy developments in the approach to resolution planning, domestically and internationally. This will not be the final PRA statement on RRP; it updates firms on our current expectations. As part of the work to implement the 'Key attributes of effective resolution regimes', the Financial Stability Board continues to evolve its RRP guidance for global systemically important financial institutions. Importantly, the BRRD is currently under negotiation. Our domestic framework will need to be reviewed for RRD compliance as part of transposition, and we will make any necessary amendments at that point.

PRA RULEBOOK RECOVERY AND RESOLUTION INSTRUMENT 2013

Powers exercised

- A. The Prudential Regulation Authority (“PRA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (1) section 137G (the PRA’s general rules); and
 - (2) section 137T (general supplementary powers).
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Pre-conditions to making

- C. The FSA published in 2011 a draft of proposed rules and had regard to representations made. The FSA consulted the Treasury and the Bank of England, and had regard to representations made, for the purposes of sections 139B and 139F of the Act as then in force. The PRA relies on these consultations in accordance with Schedule 20 to the Financial Services Act 2012. In accordance with section 138J of the Act (consultation with the Financial Conduct Authority), the PRA consulted the Financial Conduct Authority.

PRA Rulebook Recovery and Resolution Instrument 2013

- D. The PRA makes the rules in Annex A to this instrument.

Commencement

- E. This instrument comes into force on 1 January 2014.

Citation

- F. This instrument may be cited as the Recovery and Resolution Instrument 2013.

By order of the Board of the Prudential Regulation Authority

16 December 2013

Annex A

In this Annex, the text is all new and is not underlined.

Part

RECOVERY AND RESOLUTION

Chapter content

- 1. APPLICATION AND DEFINITIONS**
- 2. RECOVERY PLANS**
- 3. RESOLUTION PACK**
- 4. REVIEW OF RECOVERY PLAN AND RESOLUTION PACK**
- 5. GOVERNANCE ARRANGEMENTS**

Links

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to:

- (1) a *UK Bank*;
- [(2) a *building society*; and
- [(3) a *UK designated investment firm*.

1.2 In this Part, the following definitions shall apply:

group

means A and any *person* who is:

- (a) a *parent undertaking* of A;
- (b) a *subsidiary undertaking* of A;
- (c) a *subsidiary undertaking* of a *parent undertaking* of A;
- (d) a *parent undertaking* of a *subsidiary undertaking* of A;
- (e) if A or an undertaking in (a) or (d) is an incorporated friendly society, a body corporate of which that friendly society has joint control (as defined in section 13(9)(c) or (cc) of the Friendly Societies Act 1992);

recovery plan

means a document containing information which:

- (a) relates to action to be taken to secure that, in the event of specified circumstances affecting the carrying on of business (or any part of the business) of a *firm*:
 - (i) the business of the *firm*; or
 - (ii) a specified part of that business;

is capable of being carried on (whether or not by the *firm* and whether or not in the same way as previously);
- (b) would facilitate the carrying on of the business (or any part of the business) of a *firm* by any other *person*.

[Note: This definition is based on the definition for ‘recovery plan’ in section 137J of the Act.]

resolution pack

means a document containing information which:

- (a) relates to action to be taken in the event of:
 - (i) circumstances arising in which it is likely that the business (or any part of the business) of a *firm* will fail; or

- (ii) the failure of the business (or any part of the business) of a *firm*;
- (b) would facilitate anything falling to be done by any *person* in consequence of that failure. An example of information within (b) is information that, in the event of that failure, would facilitate:
 - (i) planning by the *Treasury* in relation to the possible exercise of any of its powers under Part 1 of the Banking Act 2009; or
 - (ii) planning by the *Bank of England* in relation to the possible exercise of any of its powers under Part 1, 2 or 3 of that *Act*.

[Note: This definition is based on the definition for 'resolution plan' in section 137K of the Act.]

senior personnel

those *persons* who effectively direct the business of the *firm*, which could include a *firm's governing body* and other *persons* who effectively direct the business of the *firm*.

1.3 In this Part:

- (1) references to the taking of action include the taking of action by:
 - (a) the *firm*;
 - (b) any other *person* in the same *group* as the *firm*; and
 - (c) a *partnership* of which the *firm* is a member;
- (2) references to the business of the *firm* include references to the business of:
 - (a) any other *person* in the same *group* as the *firm*; and
 - (b) a *partnership* of which the *firm* is a member.

2 RECOVERY PLANS

- 2.1 (1) Subject to (2), every *firm* must prepare and maintain an adequate *recovery plan*.
- (2) If a *group* has within it more than one *firm* to which this Part applies, only one of those *firms* needs to have a *recovery plan*, so long as that plan contains content for each *firm* in the *group* that complies with 2.3, 2.4, 2.5 and 2.6.
- 2.2 A *firm* must provide its *recovery plan* to the *PRA* by online submission through:
 - (1) email; or
 - (2) the appropriate systems made available to *firms*.
- 2.3 The *recovery plan* must set out the actions that could be taken to secure that:
 - (1) the business of the *firm*; or
 - (2) any part of the business of the *firm*,

is capable of being carried on and returned to a stable and sustainable condition (whether or not by the *firm* and whether or not in the same way as previously) if circumstances arise which adversely affect the carrying on of the business (or any part of the business) of the *firm*.

- 2.4 The *recovery plan* must contain a comprehensive range of options setting out actions that could be taken in a number of different scenarios and stresses, whether by:
- (1) the *firm* alone; or
 - (2) the *firm* in conjunction with other members of its *group*; or
 - (3) by another member of the *group*.
- 2.5 The *recovery plan* must, in particular, include:
- (1) the actions that could be taken to return the *firm* to adequate levels of capital and liquidity; and
 - (2) the applicable governance arrangements, and indicators when options in the *recovery plan* might be employed, and procedures to ensure the timely implementation of the actions.
- 2.6 A *firm* must notify the *PRA* as soon as it becomes aware that the *firm's recovery plan* indicators have been met.
- 2.7 A *firm's recovery plan* must take into account the wider business of the *group* of which the *firm* is a *member*.

[Note: Art 74(4) of the CRD]

3 RESOLUTION PACK

- 3.1 Every *firm* must prepare and maintain a *resolution pack*.
- 3.2 A *firm* must provide its *resolution pack* to the *PRA* by online submission through:
- (1) email; or
 - (2) the appropriate systems made available to *firms*.
- 3.3 (1) A *resolution pack* must contain information and analysis which would facilitate the taking of actions in the event that it is likely that the *firm* will fail, or in the event that the *firm* fails.
- (2) The *resolution pack* must, in particular, contain sufficient information and analysis to facilitate planning by the *Treasury*, the *Bank of England* or the *PRA* in relation to the possible exercise of any of their powers under the Banking Act 2009.
- 3.4 A *firm's resolution pack* must take into account the wider business of the *group* of which the *firm* is a *member*.

[Note: Art 74(4) of the CRD]

4 REVIEW OF RECOVERY PLAN AND RESOLUTION PACK

- 4.1 (1) Every *firm* must review its *recovery plan* at least once a year.
- (2) Every *firm* must keep its *recovery plan* and its *resolution pack* up to date, which includes ensuring that each is updated to reflect any material developments in the *firm's* business and in the business of any member of the *group*.
- 4.2 A *firm* must notify the *PRA* of any material changes made to its *recovery plan* and *resolution pack* promptly and, in any event, within one month of making any such change.

5 GOVERNANCE ARRANGEMENTS

- 5.1 A *firm* must, taking into account the nature, scale and complexity of its business and the business of other members of its *group*, establish and maintain appropriate internal processes regarding the governance of its *recovery plan* and *resolution pack*.
- 5.2 (1) A *firm's* *recovery plan* must be subject to oversight and approval by the *firm's* *governing body*.
- (2) A *firm's* *governing body* must be responsible for assessing, approving and overseeing the *firm's* arrangements in place to produce the *firm's* *resolution pack*. The *firm's* audit committee must periodically review these arrangements and the *recovery plan*.
- (3) A *firm* must nominate an executive *director* who is a member of the *firm's* *governing body* to have responsibility for the *recovery plan* and *resolution pack* and for overseeing the internal processes regarding their governance.