

FS12/1

Financial Services Authority

Recovery and Resolution Plans

Contents

	Abbreviations used in this paper	3
1	Executive summary	5
2	Background	6
3	Responses to Consultation Paper	8
4	Proposed changes to RRP's	9
5	Next steps and expected work for firms	11

This Feedback Statement reports on the main issues arising from Consultation Paper 11/16 (*Recovery and Resolution Plans*).

Please address any comments or enquiries to:

Alex Brown
Recovery and Resolution Team
25 The North Colonnade
Canary Wharf
London E14 5HS

Telephone: 020 7066 1808

Email: fsarecoveryandresolution@fsa.gov.uk

Copies of this Feedback Statement are available to download from our website – www.fsa.gov.uk. Alternatively, paper copies can be obtained by calling the FSA order line: 0845 608 2372.

Abbreviations used in this paper

CFPs	Contingency Funding Plans
CP	Consultation Paper
DP	Discussion Paper
EEA	European Economic Area
FAQs	Frequently Asked Questions
FSB	Financial Stability Board
FS	Feedback Statement
G-SIFIs	Globally Systemically Important Financial Institutions
ICB	Independent Commission on Banking
PS	Policy Statement
RRPs	Recovery and Resolution Plans

1

Executive summary

- 1.1 In August 2011 we published a Consultation and Discussion Paper on RRP's (CP 11/16). This document explains the progress made since that publication, summarises the responses received, reviews other UK and international initiatives that are relevant to recovery plans and resolution packs, and sets out the proposed next steps.
- 1.2 The progress made so far in data gathering from firms that have started to produce recovery plans and resolution packs has been invaluable for the development of plans to resolve banks without a negative impact on financial stability or recourse to public funds. It has also helped to inform the debate on improving the resolvability of financial institutions.
- 1.3 Given the various significant developments that are relevant to RRP's, we have decided to delay the publication of the final rules. Accordingly, we are publishing this Feedback Statement, along with draft 'core' rules¹, rather than a formal Policy Statement with final rules. We will make sure that the rules in the UK are, as far as possible, consistent with (i) the proposed European Recovery and Resolution Directive, and (ii) the Financial Stability Board's Key Attributes of Effective Resolution Regimes. We are publishing draft core rules, an updated draft of the Information Pack to show developments in our thinking, and our responses to some Frequently Asked Questions (FAQs), which will help firms understand our practical approach.
- 1.4 The final rules will be published no later than autumn 2012. We are confident that the development and submission of recovery plans and resolution packs will continue as planned. Large firms involved in the pilot exercise will submit their recovery plans and resolution packs by the end of June, as agreed with their supervisors. We expect firms to continue to work with the authorities on developing recovery plans and resolution packs, taking into account the draft core rules and updated Information Pack.

1 These comprise an updated version of the amendments to FINMAR 4 published in CP11/16 only.

2

Background

- 2.1 RRP rules will require firms to produce recovery plans and resolution packs and aim to ensure that financial institutions:
- assess and document the recovery options that would be available to them in situations of stress;
 - enable these recovery options to be mobilised quickly and effectively; and
 - supply the regulatory authorities with information on and analysis of their businesses, organisation and structures to enable the authorities to write a resolution plan which ensures that an orderly resolution, without adverse systemic impact or use of public funds, can be carried out should it become necessary.

This approach to RRPs is gaining wide acceptance both in the UK and internationally through various initiatives.

- 2.2 The recent financial crisis highlighted the need for authorities to have more information to be better prepared for orderly resolution and recovery from situations of stress. We firmly believe that the benefits of increased financial stability for taxpayers, the financial sector and the wider economy from the collection of information through the RRP process are likely to be considerable and we continue to work to implement rules on RRPs in line with the international timetable.
- 2.3 We understand the importance for rules on RRPs to be internationally coordinated and aligned with other regulatory initiatives. To this end, recent relevant developments, such as (i) the publication, and agreement to implement by G20 leaders, of the Key Attributes of Effective Resolution Regimes by the Financial Stability Board (FSB); (ii) the recent European Commission Technical Discussion Paper on ‘bail-in’²; (iii) the expected subsequent directive to establish a framework for the recovery and resolution of credit institutions and investment firms; and (iv) the publication of the Independent Commission on Banking’s (ICB) report and the government’s response to it, need to be taken into account.

2 http://ec.europa.eu/internal_market/bank/docs/crisis-management/discussion_paper_bail_in_en.pdf

- 2.4 In addition, the UK authorities have continued to make significant progress on cross-border resolution planning, involving international authorities. In order to maximise their effectiveness, the final rules will reflect these developments.

3

Responses to Consultation Paper

- 3.1** We received detailed responses to our Consultation Paper on Recovery and Resolution Plans (CP11/16). Respondents highlighted concerns surrounding the recovery plan trigger framework, the FSA's involvement in the implementation of recovery options, the determination of 'critical' economic functions, and the removal of internal structural barriers to resolution.
- 3.2** A common theme across the responses was a strong desire for international consistency in developing recovery plans and resolution packs and for due consideration to be given to the international timetable. Respondents were keen for steps to be taken to avoid potentially incompatible and duplicative approaches to RRP in different jurisdictions.
- 3.3** A number of respondents were concerned about how the RRP process would fit with the ICB's proposals and other forthcoming changes. When we publish final rules on RRP we will provide fuller feedback, but meanwhile we are grateful for the helpful engagement that we have had with respondents to the Consultation and Discussion Paper.

4

Proposed changes to RRPs

- 4.1** The ongoing pilot process, the responses to the Consultation Paper, and work on appropriate resolution tools for large firms have helped us develop our approach in certain areas. You will see various adjustments to the draft core rules and Information Pack. Some of the key modifications are explained below:
- 4.2** **Merging recovery plans and other supervisory requirements.** We acknowledged in the Consultation Paper that the presence of both recovery plans and Contingency Funding Plans (CFPs) created considerable overlap and led to some confusion. We therefore propose to streamline the approach, with CFPs subsumed into recovery plans for firms that are subject to both requirements. Firms following the Information Pack from now on will find that it includes all the information required under existing rules for CFPs so that separate documents do not need to be maintained.
- 4.3** **Collection of debt information.** Work has progressed on necessary resolution tools for large firms, including work on ‘bailing-in’ creditors, as a way of resolving the group while maintaining its systemically important activities. To help us develop resolution strategies where losses can be imposed on creditors rather than taxpayers, additional information will be requested on issued debt as set out in module 5a of the Information Pack. We are already in discussions with certain firms about gathering this information.
- 4.4** **Interbank exposures and derivatives templates.** Industry groups have been held to discuss both of these topics with the aim of developing requirements that provide what the authorities need with the least burden for firms. Firms have been contacted separately about requirements for interbank exposures. A link to the revised derivatives template is in the attached Information Pack, and supervisors will communicate the required timing for its completion directly to firms.
- 4.5** **Scope.** The FSB’s Key Attributes of Effective Resolution Regimes and the RRP pilot exercise highlighted the need for our rules to be applied directly to a wider range of firms. Before finalising our rules we intend to consult on extending the scope of application to UK branches of non-EEA firms. Meanwhile we expect to request information on the activities of UK branches of non-EEA firms, either from those firms or from subsidiaries of the same group in the UK.

- 4.6 Triggers.** The draft core rules and the revised Information Pack provide more information around the trigger framework and clarify the actions that are required when triggers are met.
- 4.7 Other changes.** Other changes include the identification of new economic functions (exchange services, trade finance, infrastructure lending).

5

Next steps and expected work for firms

- 5.1 There are a number of recent and forthcoming national and international developments that are relevant to RRP and which we believe should be reflected in the final rules.
- 5.2 The publication of the EC's Recovery and Resolution Directive is expected soon, and the final rules will need to comply with the draft Directive.
- 5.3 The FSB has published, and G20 leaders have agreed to implement, the Key Attributes of Effective Resolution Regimes. In particular, co-operation agreements, recovery and resolution plans and resolvability assessments must be in place for all global systemically important financial institutions (G-SIFIs) by the end of 2012. We expect that shared experience through FSB working groups will lead to an evolution in the FSB's approach as work progresses towards this deadline. We will take account of this in the final rules.
- 5.4 Recovery and resolution planning significantly overlaps with some of the recommendations of the ICB. HM Treasury proposes a white paper and consultation paper this summer detailing a proposed legislative response to the ICB. We believe that the RRP rules should be consistent with the legislation brought forward in response to the ICB report.
- 5.5 The UK authorities have made significant progress with resolution planning involving international authorities, particularly with the US (including, for example, on information sharing with the US authorities and considering the application of resolution tools for G-SIFIs, such as bail-in). This work will be developed further and lessons should be incorporated in the final rules and information requests.
- 5.6 Taking account of all of these developments, and the desire for international coordination, we have decided to delay the publication of final rules. We attach draft core rules and an updated draft of the Information Pack to show our most recent thinking. Final rules will be published when they can take account of the developments listed above and no later than this autumn.

- 5.7 We do not expect this to lead to an overall delay to the development of RRP. We remain fully committed to ensuring that the rules are designed to collect the most valuable information, and to meet the international deadlines for the introduction of rules on RRP. Firms should continue to work with their supervisors on developing recovery plans and resolution packs, taking into account the updated Information Pack.
- 5.8 Work with the G-SIFIs that were part of the pilot exercise will continue as planned in order to meet FSB deadlines, with key deadlines for those firms remaining, as planned, this summer. This will be extended to G-SIFIs that were not part of the pilot exercise, in particular so that we can meet our obligations as a host regulator to certain G-SIFIs under the FSB's approach. The information we will be collecting relates both to possible resolution plans where a group-wide solution, perhaps based on bailing-in senior creditors, is appropriate and also to resolution or contingency plans in cases where even a large, complex group needs to be broken up or wound down in an orderly manner.
- 5.9 For small- and medium-sized firms, there will be no uniform deadlines applying to all firms. However, we would like firms to progress their recovery and resolution planning arrangements; good practice would be to proceed on a best efforts basis and in accordance with the updated Information Pack. Supervisors will discuss individual deadlines with each firm ensuring that requests are on reasonable notice and are proportionate to each firm's circumstances and the risks they pose.

Separate document on FSA website – Draft core rules

Separate document on FSA website – Revised draft information pack

Separate document on FSA website – FAQs for firms

PUB REF: 002891

The Financial Services Authority
25 The North Colonnade Canary Wharf London E14 5HS
Telephone: +44 (0)20 7066 1000 Fax: +44 (0)20 7066 1099
Website: www.fsa.gov.uk

Registered as a Limited Company in England and Wales No. 1920623. Registered Office as above.