

POSITION PAPER



ESBG response to the European Banking Authority consultation on Guidelines to institutions and resolution authorities on resolvability testing

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The EBA deadline is set for Wednesday 15 February 2023.

Questions for consultation

Question 1. Do you have any comments on the proposal to introduce a self-assessment to improve banks involvement in the resolution planning process?

The EBA consultation highlights several areas where the objective to be reached remains unclear. In particular, topics that fall under “going concern” which are closely monitored within the prudential and supervisory framework, should hence not also be included within the resolution framework. We agree that the topics are of high importance, but it is essential to be stringent with the treatment of issues and not to create any potential for ambiguity in case a crisis would emerge. We therefore argue that these areas should be removed from the guidelines, i.e., that all the requirements that are already covered by the supervision authorities should not be duplicated in these guidelines. As part of the ongoing work to ensure resolvability, we agree that it is essential to perform a “gap analysis”. Although the guidelines enter into force in 2024, we do not fully grasp the need for a “gap analysis” after the date when compliance is expected (in relation to point 124.c.).

Furthermore, the scope of the self-assessment report & Testing requirements (paragraph 20) for non-resolution entities that have MREL requirements higher than own funds (LCA+RCA) that should be led either by the resolution authority of the resolution entity or the host resolution authorities, should be limited in scope or adjusted based on its individual requirements. Non-Resolution entities within a resolution group and within the same member state, for example, might have limited requirements in terms of operational continuity, bail-in, contractual clauses, reorganization plan etc. The EBA Guidelines should not only provide proportionality for compliance as defined in number 23 or on formatting as defined in 128, but also provide the possibility to limit the self-assessment based on individually addressed requirements given by the local or group resolution authority.

The guideline should be enhanced by the requirement for the resolution authority to present the authority’s assessment to the bank in order to identify areas for improvement and to avoid miscommunication.

Question 2. Do you have any comments on the list of questions to banks included in the self-assessment as set-out in para 124-125?

We welcome the dialogue with the resolution authority (below RA). Such cooperation will lead to a better understanding of the resolvability expectations and thus benefit financial stability. However, we want to stress that the institutions do not have full insight into the resolution plan and that the RAs share information on a ‘need-to-know basis’, but we welcome a dialogue so that the RAs are able to know how the institutions perceive the information shared.



“124. Institutions should annually prepare and submit to the relevant resolution authority a report, where they self-assess whether they meet, and to what degree, the capabilities set out in section 4.1 to 4.5 and 4.8. of these guidelines, and in sections 2 and 3 of the Guidelines on transferability to complement the resolvability assessment for transfer strategies (Transferability Guidelines), including inter alia the following elements:

- a. Degree in which the capability is met (low, mid, high, not applicable)*
- b. Description of how the capability is met or why it is deemed not applicable under point a.*
- c. Gap assessment on the resolvability capabilities as set out in these guidelines and those of the institution, on how this gap can be addressed and by when;*
- d. Description of how the capability is embedded in business as usual (BaU)*
- e. Description of how the capability relates to the recovery planning of the institution (e.g. do operational continuity in resolution arrangements also support recovery options such as disposals, or are recovery arrangements leveraged to support resolution)*
- f. Any internal or external assessment performed on how these guidelines have been applied by the institution, including internal or external audits reports, external consultant assessments, dry runs or supervisory reviews;*
- g. Any additional topic set-out by the relevant resolution authority (e.g. lessons learned from recent downturn or market event)”*

Some banks have been measuring their progress based on the 2021 SRB Expectation for Banks (EfB) and not the Guidelines EBA/GL/2022/01 on improving resolvability for institutions and resolution authorities. In its advice, the EBA refers to an assessment of its own guidelines (sections 4.1 to 4.5 and 4.8.). We suggest referencing the EfB, as those are the more operationalized guidelines to achieve resolvability.

Until 2022, banks were asked to perform multi annual programs and progress reports based on the expectations for banks principal. In 2022, a self-assessment tool was provided by the SRB, to be filled out by the bank on a yearly basis. The listed parameters as defined in section (4.6 (126)) deviate from the SRB in all parameters and provide new requirements and extended scope except for the gap assessment. Given the clarification in 128, it is not expected that the published EBA report on self-assessment is a complementary report, but the self-assessment report provided by the SRB is relevant. This is relevant to enable stability for proper planning and reporting: a proper, harmonized and stable reporting is necessary.

(124.d): a better approach would be to use the SRB field showing related documents.

(124.e): since we do not see in how far the information is if capabilities relate / support recovery planning and options relevant for resolvability assessment, we ask for deletion of point e.



(124.g): this point should not be a parameter (column) but rather listed together with topic requirements such as performing dry runs.

“125. In a preamble to the self-assessment set-out in paragraph 124, institutions should summarise:

- a. set-out their understanding of the resolution strategy as identified by the resolution authority; and of their role and that of the authority (ies) in the execution of that strategy.”*
- b. describe their testing and assurance framework that allow them to ensure their capacity to support the execution of the resolution strategy on a continued basis.”*

(125.a): it is not clear in how far it is expected by the banks to describe their understanding of the role of the authority in executing the strategy. In order to respond to this requirement, banks should receive the relevant resolution plan sections that are only available to banks in the high-level summary.

(125.b): this is a duplication of the requirements set under parameter 124 (f) dry runs and should be removed.

“126. Reports should be submitted by institutions to the resolution authority on an annual basis. The first report should be submitted by 31 December 2024.”

Provided that the non-resolution entities requirement is new and keeping in mind the date of effectiveness of publication, the deadline should be set to 2025. Besides, keeping in mind the considerable effort required we deem that a submission of the self-assessment report every two years would be justified.

128. For the purpose of the self-assessment report referred to in paragraph 124, institutions should follow the format provided by their resolution authority.

We reinforce our argument by the fact that the EBA itself states in paragraph 128 that, for the purpose of the self-assessment report referred to in paragraph 124, institutions should follow the format provided by their resolution authority. We expect the resolution authority will want to refer to its own EfB.

Question 3. Do you have any comments on the proposal to require authorities to communicate a multiannual testing programme?

We welcome as clear communication from RA’s as possible. We would like to highlight the importance of a common understanding of the definition of a timeframe, as “reasonable timeframe”. The lack of a common definition might lead to different interpretations. We suggest to alter the wording to “..reasonable timeframe as agreed with the institution in question..”.

In our view, the choice of testing techniques shall be left to the institution in order to ensure a relevant and risk-based testing. The performance of ‘dry-runs’



is further supported by a forward-looking testing concept which is to be developed by institutions and to be shared with the resolution authorities.

We would expect for the EBA to advise that the multiannual testing programme as a whole (and not only the testing techniques as referred to in paragraph 133) should be:

- (1) proportionate to the bank's size, risk profile, business model and resolution strategy; and
- (2) adapted to other supervisory expectations (inter alia from the ECB), in order to avoid overlap and overcrowded time use of a select part of the bank's staff. Based on the proportionality principle we propose that the frequency of the multiannual testing programme follows the frequency set by the *EBA Guidelines on common procedures and methodologies for the supervisory review and evaluation process (SREP) and supervisory stress testing under Directive 2013/36/EU* to different categories of institutions based on their size and complexity (Table 1, Sect. 2.4.5).

Question 4. Do you have any comments on the proposal to introduce a master playbook for the more complex banks?

Before asking banks to set up a master playbook, any guidance or information from the resolution authorities on a successful resolution process that is interlinked would be welcome. The expectations for banks should be based on an initial thought that would be made clear.

Does the Master playbook containing all relevant dimensions replace the other playbooks/handbooks like the bail-in playbook, FMI CFP and its annual update on a separate basis, or is this an additional playbook that should co-exist, by duplicating all information from the source handbooks? To avoid unnecessary duplications, overlaps in updating periods maintaining only one set of documents is to be aimed.

In relation to the master playbook, it is essential to distinguish between the "roles and responsibilities" of the institution, supervisory authority and the RA. In the guidelines, the contents of the master playbook are referred to and it is specified that it should be developed by the institution. As an example, point 139.a asks the institution to "Define key roles and responsibilities of senior management in the run-up to and during resolution". However, we consider the run-up to resolution to be what is covered by the recovery plan of the institution. If (/when) the supervisory authority assesses that the institution is FOLF, it poses the question to the RA whether the institution should be set in resolution or treated under normal insolvency. At the point of resolution, the RA takes control over the institution. Hence, we believe that item a-c should be withdrawn from a master playbook, as it is considered either covered by the recovery plan or under the responsibility of the RA.



(139.b): to set-out timeframes on decisions in resolution, further information should be provided by the authority for crucial information steps, especially such as: when the bail-in process should operationally be prepared if resolution notification is only published at a later stage.

(139.e): the elements specified refer to the resolution strategy, which is part of the resolution plan.

Also, for the master playbook, we believe that a regular (and not yearly) submission every two years is sufficient and proportionate.



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