



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Feedback to CP126 on Central Bank of Ireland's Approach to Resolution for Banks and Investment Firms April 2019

1. Introduction

Consultation paper CP126 on *Central Bank of Ireland's Approach to Resolution for Banks and Investment Firms* was published on 6 December 2018. The consultation period closed on 17 January 2019 and one response was received by that date.

CP126 outlined Central Bank of Ireland's (the Central Bank's) proposed approach to resolution for banks and investment firms, pursuant to the Central Bank's mandates and discretions under Regulation (EU) No 806/2014 (the Single Resolution Mechanism Regulation) and the European Union (Bank Recovery and Resolution) Regulations 2015.

The Central Bank is grateful to the party that responded to the consultation for their time and effort. Their response to the consultation is available on our website at the following address:

<https://www.centralbank.ie/publication/consultation-papers>

Having considered the submission received, the Central Bank has:

- Taken note of areas where the respondent queried the proposed approach;
- Clarified the key questions raised; and
- Provided further guidance on its proposed approach, where necessary.

2. Summary

The respondent commented upon the following areas of CP126:

- i. Resolution planning requirements under simplified resolution planning obligations;
- ii. The public interest assessment;
- iii. Resolution planning implications for cross-border groups; and
- iv. Other issues.

3. Main Issues Highlighted

3.1. Resolution planning requirements under the simplified obligations regime

As per Part 2 of the Schedule of the European Union (Bank Recovery and Resolution) Regulations ('the BRR Regulations'), in drawing up institutions' resolution plans the Central Bank as national resolution authority (NRA) may direct an institution to provide all necessary information. The Central Bank expects such requests to occur at least annually and for them to be aligned with European Banking Authority (EBA) templates developed under the applicable European Commission regulations. The timings and deadlines for such returns are institution-specific.

Submission

The respondent noted that the scope of the proposed framework is limited to less significant institutions (LSIs) and that the Central Bank would expect to conclude for most in-scope firms that the resolution objectives would be achieved through liquidation. The respondent thus indicated it would be helpful if the Central Bank could further clarify the interaction between the public interest test and the 'simplified obligations' resolution planning regime and whether the less significant nature of the firms will have any impact on resolution planning requirements. The respondent further queried if the annual submission of resolution information by small firms, that do not provide critical functions, do not go through any significant changes on a yearly basis, and which may have simplified resolution plans, is necessary and proportionate.

Central Bank Feedback

The Central Bank would highlight that, for LSIs and investment firms where use of resolution tools is not assumed during the planning phase, proportionality is already reflected in the expected degree of resolution information relative to significant institutions (SIs). In particular, from 2019 onwards such institutions are generally not required to submit the same number of reporting templates as SIs but are required to complete the templates as outlined within the EBA minimum requirement for resolution reporting as set out in the relevant European Commission Implementing

Regulation. For institutions that fall within the scope of simplified resolution planning obligations, generally the Central Bank will request the EBA minimum requirement reporting templates; however the Central Bank has discretion to reduce the level of information if it deems it appropriate to do so. The Central Bank will make its determination of simplified resolution planning obligations on an annual and case-by-case basis. Institutions subject to reduced resolution plan information requests should not, however, assume that this would necessarily determine that they would be liquidated if they failed. New paragraphs 2.12.-2.14. have been added to Part II of the document accordingly.

3.2. Public interest test

Use of the resolution tools may only occur where this is in the public interest. In determining the public interest for this purpose, the Central Bank must have regard to a number of objectives. These objectives are not ranked in an order of priority – if there is tension between one or more of the applicable objectives, the relative priority given to them may be balanced by the Central Bank in the particular circumstances of the case.

Submission

The respondent requested that the factors influencing the public interest assessment be expanded upon. The respondent suggested that the final paper expand on the public interest test, i.e. taking into consideration the resolution objectives, key factors that would influence this assessment and how decisions would be taken by the Central Bank/Single Resolution Board (SRB).

Central Bank Feedback

Both quantitative and qualitative factors may contribute to the public interest assessment. Each case must be considered on its own merits with a view to achieving each of the resolution objectives in the circumstances. The public interest in resolution is assessed at both the resolution planning and failure stages. The Central Bank has, for information purposes, included indicative factors relevant to the public interest assessment in paragraph 1.54. of Part I of the document and would also highlight Figure 12 in Part IV of the document which addresses the Central Bank's resolution decision-making process.

3.3. Resolution planning implications for multinational groups

Where an institution forms part of a cross-border group (other than a cross-Banking Union group), the Central Bank would have different group-level resolution planning obligations. These obligations would depend on whether the Central Bank is the group-level resolution authority (GLRA) (where the institution is the EEA group parent) or is the resolution authority for a group subsidiary, i.e. where the institution is a subsidiary of a group parented in another jurisdiction.

Submission

The respondent submitted that it would be helpful if the Central Bank could expand on its approach regarding resolution planning for in-scope firms that are part of a cross-border group.

Central Bank Feedback

The respondent's question was in relation to paragraph 2.8. (restated above) of Part II of CP126. The intention of the Central Bank in that paragraph was to highlight that the resolution planning procedure itself, and thus the level of discretion and obligations of the Central Bank within that procedure, will differ where the group in question is multinational in nature. In such instances, the Central Bank is subject to a joint decision-making procedure with respect to group resolution planning, as specified in the relevant European Commission regulation. The Central Bank has revised paragraph 2.8. of Part II of the document to enhance clarity in this regard.

3.4. Other Issues

The Central Bank takes note of the cross-referencing issue highlighted by the respondent, which has been rectified. The Central Bank also confirms that this document is primarily intended to outline the resolution framework within which the Central Bank operates as well as the Central Bank's general expectations and approaches thereunder. However, the statutory obligations highlighted in the document (e.g. resolution planning, MREL requirements) are already applicable under the relevant legislation, thus the publication of this document does not, in itself, mark a (new) starting date for those obligations.

The Central Bank has also made certain other incidental amendments to the revised document. In particular, amendments to paragraphs 3.25. and 3.26. of Part III are aimed at ensuring full alignment with recently updated SRB guidance on setting the minimum requirement for own funds and eligible liabilities (MREL), which issued subsequent to the Central Bank's consultation. As indicated in CP126, it is the Central Bank's present intention to align with SRB guidance in key areas, including MREL.

The Central Bank would also draw institutions' attention to, in particular, new paragraphs 2.25. and 2.26. of Part II of the document relating to the ongoing maintenance, and production upon request, of financial contract records. This addition is reflective of already-existing statutory obligations and confirms the Central Bank's expectations in this area. The Central Bank would further draw institutions' attention to new paragraph 2.17.

(previously part of paragraph 2.14. in CP126) of Part II of the document, which provides further information on the Central Bank's specific expectations in relation to cooperation with the Central Bank in the preparation, updating and implementation of resolution plans in certain respects.

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