

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

Circular to Institutions on the submission of a Recovery Plan Document

[Directive 2014/59/EU](#)¹, (hereinafter referred to as ‘the BRRD’), establishes a framework for the recovery and resolution of credit institutions and investment firms (hereinafter referred to as ‘institutions’) and related entities, specifying a Union-wide framework for crisis prevention, management and resolution of these entities.

In pursuance of this, the Malta Financial Services Authority (hereinafter referred to as ‘the Authority’) would like to draw your attention to the provisions of the BRRD on recovery plans, Article 17B (4) of the Banking Act² and SLC 1.39 of Part BI of the Investment Services Rules for Investment Services Providers³, which provide that every institution shall have in place a recovery plan for the restoration of its financial situation following a significant deterioration, which is proportionate to their size, business model and interconnectedness.

The objective of a recovery plan is to identify the actions that might be available to counter those factors that could prompt a crisis and to assess whether such actions are robust enough through a wide range of shocks of different natures. For this purpose, the recovery actions shall be designed in a manner that should the actions not be implemented in a timely manner, this could result in the failure of the institution.

In accordance with the above, an institution shall prepare a recovery plan that sets out actions that need to be taken so as to restore its financial position following a significant deterioration. Such plan shall be detailed and based on realistic assumptions and shall include plausible actions which shall be taken by the management of the institution once the conditions for early intervention are met.

When drawing up a recovery plan, an institution shall abide by the following Guidelines and Technical Standards issued by the European Banking Authority (hereinafter referred to as ‘the EBA’). The relative links to the relevant Guidelines and Technical Standards may be found hereunder:

¹ Directive 2014/59/EU, establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council.

² Chapter 371 of the Laws of Malta.

³ Investment Services Licence Holders which are in possession of a Category 3 Investment Services Licence.

1. EBA Guidelines on the minimum list of qualitative and quantitative recovery plan indicators [referred to in Article 9(2) of the BRRD]:
<http://www.eba.europa.eu/documents/10180/1064487/EBA-GL-2015-02+GL+on+recovery+plan+indicators.pdf/4bf18728-e836-408f-a583-b22ebaf59181>

2. EBA Guidelines on the range of scenarios to be used in recovery plans [referred to in Article 5(7) of the BRRD]:
<http://www.eba.europa.eu/documents/10180/760136/EBA-GL-2014-06+Guidelines+on+Recovery+Plan+Scenarios.pdf>

3. EBA Final Draft RTS on the content of recovery plans [referred to in Article 5(10) of the BRRD]:
<http://www.eba.europa.eu/documents/10180/760167/EBA-RTS-2014-11+Draft+RTS+on+content+of+recovery+plans.pdf/60899099-2dcb-4915-879d-8b779a3797cc>

4. EBA Final Draft RTS on the assessment of recovery plans [referred to in Article 6(8) of the BRRD]:
<http://www.eba.europa.eu/documents/10180/760181/EBA-RTS-2014-12+Draft+RTS+on+assessment+of+recovery+plans.pdf/27342de8-24f0-4d0e-a531-ec21f61f10f4>

It is to be noted that even though some of these documents are still in draft format, the principles contained within are applicable.

An institution shall, by **31 December 2015**, provide the Authority with a provisional recovery plan in line with the above guidelines, for the Authority's review. The institution is obliged to demonstrate to the satisfaction of the Authority that its recovery plan meets the criteria laid down in the BRRD. When assessing the appropriateness of the recovery plan, the Authority shall take into consideration the nature of an institution's business, its shareholding structure, legal form, risk profile, size, legal status and interconnectedness to other institutions or to the financial system in general, the scope and complexity of its activities, whether it is a member of an institutional protection scheme or other cooperative mutual solidarity systems, whether it exercises any investment services or activities, and whether its failure and subsequent winding up under normal insolvency proceedings would be likely to have a significant negative effect on financial markets, on other institutions, on funding conditions, or on the wider economy in the context of recovery and resolution plans.

Any queries in relation to this circular can be addressed to:

Ms. Josianne Formosa, Senior Manager, Banking Supervision Unit by e-mail on jformosa@mfsa.com.mt in relation to the business of banking;

Mr. John Sammut, Deputy Director, Securities and Markets Supervision Unit by e-mail on jrsammut@mfsa.com.mt in relation to the securities business.

Communications Unit
Malta Financial Services Authority
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