POLISH FINANCIAL SUPERVISION AUTHORITY

Chairman
Andrzej Jakubiak

Warsaw, 10 December 2012

Mr. Svein Andresen
Secretary General
Financial Stability Board
Centralbahnplatz 2
CH-4002 Basel
Switzerland

Dear Mr. Andersen

In reference to the consultative document *Recovery and Resolution Planning: Making the Key Attributes Operational* published by the Financial Stability Board on 2 November 2012 please find attached the position of the Polish Financial Supervision Authority including comments and remarks thereto.

The document elaborated by the Polish Financial Supervision Authority includes comments that reflect the original structure of the consultative document and presents our views concerning the principal elements of the proposed approach towards recovery and resolution planning.

Yours sincerely,

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The Polish Financial Supervision Authority welcomes the opportunity to share with the Financial Stability Board its views concerning the framework for recovery and resolution planning as presented in the consultative document *Recovery and Resolution Planning: Making the Key Attributes Operational.* Below are listed remarks and comments elaborated by the PFSA in response to the proposals made in the aforesaid consultative document.

I. General remark:

Recovery plans prepared by institutions constitute vast documents and due to that fact the supervisors' work is more cumbersome. It would be advisable to create a template for an abridged version a such plans embracing a summary of main areas and figures so as to ensure maximum transparency of such a document.

II. Specific remarks related to individual parts of the consultative document:

Part 1: *Guidance on Recovery Triggers and Stress Scenarios*

a) It should be underlined, that the enumerated list of prerequisites for the triggering of a recovery process should be treated as an open catalogue. Thus it could be extended by both, institutions with taking into account their individual needs, and national supervisory bodies, thanks to which the triggers could be adjusted to the specifics of a local financial market and individual institutions.

b) Reasonableness of placing the "rating downgrades" on the list of triggers raises doubts. In particular in context of a situation that has taken place on the Polish market, where downgrading the rating of a dominant entity entailed, in a sense automatically, downgrading the rating of a local subsidiary which was in a good financial condition. It needs to be highlighted that such kind of a trigger should be treated as an additional and not the primary prerequisite for commencing a recovery process. It is also unclear why the increase of public debt should be a prerequisite for instituting a recovery process in a given institution.

c) It is worth underlining, that ascertaining and monitoring of indicators should be embedded in the risk management system in a bank. A financial institution should focus primarily on the conscious, holistic risk management of its activities and not concentrate on creation of separate sets of indicators or mechanisms dedicated exclusively to the needs of crisis management. Obviously, one of the elements of such conscious risk management is an appropriate, i.e. proper and adequate as to the time, identification of serious threats that could adversely affect the functioning of an institution. To that end appropriate, predefined quantitative and qualitative indicators (triggers) could be used as well as indication of actions that could be taken in the case of exceeding some defined values of indicators. Nevertheless their use for the purpose of ascertaining a threat for an institution should not in any case be 'automatic', without a thorough analysis of a given situation and all accompanying circumstances. Financial institutions should in the first order ensure existence of processes enabling a swift, objective and accurate evaluation of a situation as one of variants of risk management. Such an approach would guarantee a safety margin for institutions that find themselves in an early phase of a threat. Any actions would be then taken within the

'ordinary' risk management (e.g. optimization of actions, eliminating irregularities / inefficiencies in operations, change of business model / approach / strategy) and would not be perceived as commencement of recovery actions, which especially in initial phase could bring additional threats for the plan being enforced, stemming from, inter alia, psychological barriers. It needs to be taken into account that a recovery plan should define types of actions undertaken in an urgent manner, especially when a gross exceeding of defined indicators' values takes place provided that such indicators are treated by an institution as key indicators.

d) The document refers to the fact, that the use of triggers and stress scenarios in recovery plans should be taken into account in the course of risk management process by institutions and should also be subject to monitoring by supervisory bodies. It would be advisable to determine the frequency with which supervisory bodies should monitor and assess how institutions implement the triggers in risk management, and if such monitoring should be conducted on an ongoing basis or together with updating recovery plans.

Part 2 - *Guidance on Developing Resolution Strategies and Operational Resolution Plans*

A resolution process coordinated at a group level raises objections. In our view a resolution process conducted for the group as a whole would involve solutions unbeneficial for subsidiary entities. It would also be very difficult to carry out due to, inter alia, differences in legal regimes binding in different Member States. Coordination of a recovery process at a group level is conceivable, but a resolution process is by far legally and organizationally more complex and thus its coordination at a group level could not yield the expected results. It could also be connected with adverse consequences, such as disturbances on financial markets. It should be noted, that even now it can be seen, that preparation of recovery plans that is being carried out in the case of G-SIFIs (cooperation in this respect takes place within the Crisis Management Group) involves difficulties in approximation of positions, which could consequently mean a risk of adopting solutions unbeneficial from the point of view of a host country.

We would like to present below a commentary to the types of strategy described in the present part of consultative document:

a) A single point of entry (SPE) approach exhibits a drawback connected with the possibility of introducing limits within the scope of taking up actions by local supervisors, which is presumed by the fact, that the resolution process is handled by the home supervisory body. The multiple point of entry (MPE) approach assumes that a home supervisory body plays a coordinating role for actions undertaken by supervisory bodies in individual countries, which does not exclude taking up actions by host supervisory bodies.
b) While considering the MPE approach it should be noted that in the majority of cases a division into groups is natural due to the fact that individual entities within a group are placed in different jurisdictions. Other advantages of such an approach include the following:
    - reduction of systemic risk, among others, through a simpler resolution of a „too big to fail" institution;

- higher resistance to (more probable) crises in individual entities belonging to a single capital group;
- ensuring higher resistance of individual entities against crises in other affiliate entities and chances of its local survival;
- taking into account specifics of legal and economic functioning of local entities;
- facilitating conduct of swift recovery actions due to clear legal framework;
- possibility of taking up actions directly by a supervisory body having oversight of a given institution without a need of approval of such actions by a home supervisor, which renders the decision-making process quicker.

Part 3 – Guidance on Identification of Critical Functions and Critical Shared Services

In the third part of the document the criteria for identification of critical functions and critical shared services are enumerated. Critical shared services would thus embrace, among others, support of human resources department, IT, transaction processing, real property management, legal services. In our view there is a lack of justification for building-up a methodology for examination of critical shared services. An analysis by institutions which services are critical, and a break in their provision could cause disturbances on the whole market, seems to be justified, but an analysis of critical shared services – due to their nature – should rather be conducted within the operational risk management process. In particular banks are required to possess for each key IT system emergency plans and business continuity plans which also should be applicable in the case of outsourcing such services.