

Brussels, 22 December 2015

UNI Europa Finance reply to the FSB Consultative document on Arrangements to Support Operational Continuity in Resolution

General remarks

UNI Europa Finance (UEF) welcomes the consultation on arrangements to support operational continuity in resolution.

Having efficient and thorough plans for handling this type of situation is essential, as it minimises the extra costs and uncertainty experienced by company and employees collectively.

Reading through the consultative document, it is worth noting that the working conditions facing the employees in the concerned companies are only mentioned very briefly if at all in the different sections. It is therefore UEF's opinion, that the following points should be further explored and incorporated in the guidance provided to companies.

- 1) UEF would like to see included a requirement for an analysis of the impact of the resolution plan on the employees of the institution and a description of envisaged measures for establishing procedures to consult with staff during the resolution process, taking into account national systems for dialogue with social partners where applicable. This is important as national provisions on the involvement of trade unions and employee representatives in company restructuring have to be respected. Employees of investment firms are key stakeholders in recovery and resolution measures. They are often the first to be affected by these measures and are at the mercy of their design. Employees must thus have the right to be consulted when recovery and resolution plans are established through appropriate procedures. This will furthermore decrease the level of stress experienced by employees during the time of transition and will ensure more focused employees in a time when the company needs all its available resources.
- 2) Resolution plans should, where applicable, respect existing collective agreements as well as national legal provisions on the involvement of trade unions and workers' representatives in company restructuring processes. Given the employees are the main pool of knowledge of the companies' strengths and weaknesses, it is only logical that they would be involved in the creation of any plans which should take these features into consideration.
- 3) It must be made absolutely clear what a recovery or resolution will entail for the employees of the entity or group concerned, and that the framework must provide for a continuously sound and sustainable employment situation. Regardless of the design of the framework and the powers invested in the administrator, it must be ensured that no employees are left worse off than they would have been, had the institution under resolution

been wound up under the applicable national insolvency law. Liabilities to employees in relation to accrued salary, pension benefits or other fixed remuneration, including variable remuneration (based on systems agreed in collective bargaining of non-executive staff) must be exempted from resolution authorities' write down and conversion powers. With regard to employee board level representation, employees and/or trade unions' right to appoint representatives to company boards must be safeguarded.

- 4) When applying the resolution tools and exercising the resolution powers, resolution authorities should establish procedures for consulting with the employees of the institution under resolution. Where applicable, such procedures can be established through collective agreements or other arrangements provided for by national social partners. Employees must have a right to be consulted during recovery and resolution phases through appropriate procedures.
- 5) UEF also believes that the resolution authority can only approve the salaries of the board of directors, not of employees in general. Social partners can, and must be allowed to, assume the responsibility of sound and sustainable remuneration principles. It is crucial to have remuneration policies and practices in place that are consistent with and promote sound and effective risk management and corporate governance. Remuneration in general is however an issue that should when possible be left to the social partners to decide upon. This also applies to variable remuneration, as it can constitute a substantial amount of an employees' pay.

In conclusion, UEF approves of the continued effort to create a common framework with which companies have to adhere when planning their recovery and resolution procedure. However, as highlighted in these comments, there is in UEF's opinion a need for a greater focus on the situation of the employees and of the need to keep them informed appropriately in times of major change. Ensuring good communication will facilitate all levels of the company working in the same direction and ensure that all the use of the company's assets are fully optimised. Most of these views are also reflected in the EU's Framework for Bank Recovery and Resolution Directive 2014/59/EU, which could be a good point of reference.

About UNI Europa

UNI Europa Finance is the European-level trade union body for the finance sector. It represents 100 unions with 1.5 million workers in the banking and insurance industries. It is part of UNI Global Union and recognised by the European Union as a social partner. UNI Europa Finance is also part of UNI Europa, representing 7 million workers in the services and communication sectors. UNI Europa is member of the ETUC.