



Single
Resolution Board

3rd SRB–Banking Industry Dialogue Meeting

Simplified obligations for Less Significant Institutions

Joanne Kellermann –Board Member

23 May 2016, Brussels

Outline

1. Legal basis
2. Main lines
3. The assessment of public interest
4. Content of simplified obligations plans
5. Application
6. Proportionality principle

Legal basis 1/2

The resolution authorities may apply simplified obligations in relation to the drafting of resolution plans, or waive this requirement.

When deciding to apply simplified obligations, the Board shall determine (Article 11(4) SRMR):

- (a) the contents and details of resolution plans;
- (b) the date by which the first resolution plans are to be drawn up and the frequency for updating plans
- (c) the contents and details of the information required from institutions;
- (d) the level of detail for the assessment of resolvability.

Simplified obligations in relation to the drafting of resolution plans shall apply:

- If "the failure of the institution or group is not likely to have significant adverse consequences for the financial system or be a threat to financial stability" (Article 11(3) SRMR)
- Being "a situation where the financial system is actually or potentially exposed to a disruption that may give rise to financial distress liable to jeopardise the orderly functioning, efficiency and integrity of the internal market or the economy or the financial system of one or more Member States" (Article 10(5) SRMR)

Main lines

- SO plans should be drafted for the LSIs under the NRAs' remit where the authority in the planning phase considers that normal insolvency procedures are to be applied.
- The same principles apply to cross-border LSIs that fall under the direct remit of the SRB.
- SO plans can be simple.
- Resolution authorities should be conservative in their planning approach and also draft plans for LSIs whose failure could potentially have significant adverse consequences for the financial system or be a threat to financial stability.
- For LSIs, in principle, resolution will only be applied under exceptional circumstances where the public interest test is met.

The assessment of public interest

- **A resolution action shall be treated as in the public interest if:**
 - (i) it is necessary for the achievement of, and is proportionate to one or more of the resolution objectives; and
 - (ii) winding up of the entity under normal insolvency proceedings would not meet those resolution objectives to the same extent. (Article 18(5) SRMR)
- **Balancing the resolution objectives (Article 14(2) SRMR)**
 - (a) to ensure the **continuity of critical functions**;
 - (b) to avoid significant adverse effects on **financial stability**;
 - (c) to protect public funds by minimising reliance on extraordinary public financial support;
 - (d) to protect depositors covered by the DGS Directive and investors covered by Directive 97/9/EC;
 - (e) to protect client funds and client assets.

Content of simplified obligations plans

The simplified obligations plans should consist of:

1. General information about the bank.
2. Relevant communication provisions.
3. Identification of legal and practical obstacles to application of ordinary insolvency proceedings (if any).
4. Conclusion of the resolvability assessment and measures to address or remove impediments to the application of normal insolvency proceedings.
5. Position of the bank itself.

Application 1/3

According to Art 11(3) SRMR, before applying simplified obligations the resolution authority would have to assess the following information:

- nature of the business;
- shareholding structure; its legal form;
- risk profile;
- size and legal status;
- interconnectedness to other institutions or to the financial system in general;
- scope and the complexity of its activities;
- membership of an IPS or other cooperative mutual solidarity systems;
- exercise of 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.

Application 2/3

The EBA Guidelines on the application of simplified obligations specify the criteria for assessing the impact of an institution's failure and subsequent winding up under normal insolvency proceedings.

These guidelines set out a list of 9 mandatory indicators against which institutions should be assessed.

The indicators provided in these guidelines should be used to assess the institutions, either on a case-by-case basis or by categorising them.

Application 3/3

Resolution authorities should be conservative in their planning approach and draft plans also for LSIs whose failure could, potentially, have significant adverse consequences for the financial system or be a threat to financial stability.

In 2016 for the sake of simplification and to align the simplified obligations for the recovery and for the resolution plans the SRM will follow the lead of the ECB in its qualification of LSIs.

This approach will be reviewed in 2017.

Proportionality principle

If an LSI's failure is likely to have significant adverse consequences for the financial system or be a threat to financial stability, full resolution plans should be drafted.

The relevant resolution authorities decide on application of the proportionality principle, however:

- the plan should be fully operational in case of the bank's failure, and therefore should address all the bank's relevant specificities;
- the plan should include all information required by the BRRD, including the determination MREL;
- the plan should not foresee any use of public money;
- and in 2016 every resolution plan should be accompanied by the applicable data requirements.



Thank you!