

Banking Rule BR/20

RECOVERY PLANNING

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REVISIONS LOG

VERSION	DATE ISSUED	DETAILS
1.00	2019	Publication of New Banking Rule implementing, <i>inter alia</i> , the EBA Guidelines on the range of scenarios to be used in recovery plans (EBA/GL/2014/06) and the EBA Guidelines on the minimum list of qualitative and quantitative recovery plan indicators (EBA/GL/2015/02), whilst also taking into considerations the EBA Recommendation on the coverage of entities in a group recovery plan (EBA/Rec/2017/02).
2.00	January 2023	Amendments to incorporate revised EBA Guidelines on recovery plan indicators under Article 9 of Directive 2014/59/EU (EBA/GL/2021/11), EBA Guidelines specifying the conditions for group financial support under Article 23 of Directive 2014/59/EU (EBA/GL/2015/17), legal clarification throughout and other ancillary matters related thereto.
3.00	October 2024	Addition of Part V to implement the EBA Guidelines on overall recovery capacity in recovery planning (EBA/GL/2023/06).

RECOVERY PLANNING

INTRODUCTION

1. In terms of article 4 of the Banking Act (Cap. 371 of the Laws of Malta) (hereinafter referred to as 'the Act') the Malta Financial Services Authority ('the authority' or 'competent authority') as defined in article 2 of the Malta Financial Services Act (Cap. 330 of the Laws of Malta) is empowered to make Banking Rules as may be required for carrying into effect any of the provisions of the Act in relation to credit institutions (also termed 'institutions' in this Rule) and other person/s, as applicable. The authority may also amend or revoke such Banking Rules and any amendment or revocation thereof shall be officially communicated to credit institutions and other person/s, as applicable, and the authority shall make copies thereof available to the public.
2. In accordance with article 4(7) of the Act, the authority may make, amend or revoke Banking Rules as may be required for the purpose of implementing any guidelines, recommendations and individual decisions issued by the European Banking Authority (hereinafter referred to as the 'EBA'), as defined in article 2(1) of the Act, under Articles 16, 17(3) and 18(3) of Regulation (EU) No. 1093/2010 establishing a European Supervisory Authority (in such case the EBA).
3. For all intents and purposes, this Rule is also being made pursuant to article 17B of the Act.
4. This Rule shall not substitute any other law, unless otherwise specified, by which credit institutions and other person/s, as applicable, subject to this Rule shall abide, more specifically the applicable provisions of the Act and subsidiary legislation emanating therefrom, the Recovery and Resolution Regulations (Subsidiary Legislation 330.09 and hereafter referred to as the 'Regulations') and, or any European Union law and, or other binding legal instruments within the meaning of the Act.
5. This Rule shall also be read in conjunction with the Commission Delegated Regulation (EU) 2016/1075 of 23 March 2016 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the content of recovery plans, resolution plans and group resolution plans, the minimum criteria that the competent authority is to assess as regards recovery plans and group recovery plans, the conditions for group financial support, the requirements for independent valuers, the contractual recognition of write-down and conversion powers, the procedures and contents of notification requirements and of notice of suspension and the operational functioning of the resolution colleges, as amended from time to time.

SCOPE, APPLICATION AND DEFINITIONS

6. This Rule applies to all credit institutions and other person/s, as applicable, in terms of the Regulations and the Act, unless specified otherwise in this Rule.
7. For the purpose of this Rule, the term 'recovery plan' shall also refer to a 'group recovery plan', as applicable in this Rule.
8. Unless otherwise specified in this Rule, the terms and expressions used in this Rule which are used in the Act and in the Regulations and which are not defined herein, shall have the same meaning assigned to them in the Act and the Regulations, as applicable.
9. This Rule adopts and implements the requirements specified in the *EBA Guidelines on the range of scenarios to be used in recovery plans (EBA/GL/2014/06)* and the *EBA Guidelines on the minimum list of qualitative and quantitative recovery plan indicators (EBA/GL/2015/02)* which were recently revised as the *EBA Guidelines on the minimum list of qualitative and quantitative recovery plan indicators under Article 9 of Directive 2014/59/EU (EBA/GL/2021/11)*, whilst also taking into consideration the *EBA Recommendation on the coverage of entities in a group recovery plan (EBA/Rec/2017/02)*.
10. This Rule also implements the *EBA Guidelines on specifying the conditions for group financial support under Article 23 of Directive 2014/59/EU (EBA/GL/2015/17)* and the *EBA Guidelines on overall recovery capacity in recovery planning (EBA/GL/2023/06)*.

PART I: RANGE OF SCENARIOS TO BE USED IN RECOVERY PLANS

11. Institutions are required, in terms of regulation 5(1) of the Regulations, to draw up and maintain a recovery plan providing for measures to be taken by the institution in order to restore its financial position following a significant deterioration of its financial situation. Recovery plans are considered to be a governance arrangement within the meaning of article 17B of the Act.
12. Union parent undertakings are also required to draw up a group recovery plan in terms of regulation 7 of the Regulations where the authority is the consolidating supervisor in terms of Supervisory (Consolidation) Credit Institutions Regulations (S.L. 371.22) and other applicable law. Group recovery plans shall consist of a recovery plan for the group headed by the Union parent

undertaking as a whole. The group recovery plan shall identify measures that may be required to be implemented at the level of the Union parent undertaking and each individual subsidiary.

13. The drafting of a recovery plan shall be undertaken prior to a crisis in order to assess the potential options that an institution or a group could itself implement in order to restore financial strength and viability should the institution or group come under severe stress.
14. This Part of the Rule specifies the range of scenarios of severe macroeconomic and financial distress which shall be considered by credit institutions and Union parent undertaking, as applicable, to test the effectiveness of recovery options and the adequacy of the indicators contained in their recovery plans in terms of regulations 5(7) and 7(6) of the Regulations.
15. This Part of the Rule is subject to determinations made regarding the extent to which details of recovery plans apply in accordance with regulation 4 of the Regulations.

Design of Scenarios

16. In the range of scenarios, there shall be included at least three (3) scenarios to ensure coverage of a system-wide event, an idiosyncratic event and a combination of system-wide and idiosyncratic events.
17. Each scenario shall be designed to meet each of the following requirements:
 - a. the scenario shall be based on events that are most relevant to the credit institution or group concerned, taking into account, among other relevant factors, its business and funding model, its activities and structure, its size or its interconnectedness to other institutions or to the financial system in general, and, in particular, any identified vulnerabilities or weaknesses of the institution or group;
 - b. the events foreseen in the scenario would threaten to cause the failure of the credit institution or group, unless recovery measures were implemented in a timely manner; and
 - c. the scenario shall be based on events that are exceptional but plausible.
18. Each scenario shall include, where relevant, at least an assessment of the impact of the events on each of the following aspects of the credit institution or group:
 - a. available capital;

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- b. available liquidity;
 - c. risk profile;
 - d. profitability;
 - d. operations, including payment and settlement operations; and
 - e. reputation.
19. Reverse stress testing shall be considered as a starting point for developing scenarios that shall be only 'near-default'; i.e. they would lead to a credit institution's or group's business model becoming non-viable unless the recovery actions were successfully implemented.

Range of Scenarios of Financial Distress

20. Taking into account the principle of proportionality, the number of scenarios shall be commensurate, in particular, with the nature of the business of the institution or group, its size, its interconnectedness to other institutions and to the financial system in general and its funding models.
21. At least one scenario shall be included for each of the following types of events:
- a. 'system-wide event', which means an event that risks having serious negative consequences for the financial system or the real economy;
 - b. an 'idiosyncratic event', which means an event that risks having serious negative consequences for a single institution, a single group or an institution within a group; and
 - c. a combination of system-wide and idiosyncratic events which occur simultaneously and interactively.
22. Institutions designated as Other Systemically Important Institutions (O-SIIs) under the methodology for the identification of other systemically important institutions and the related capital buffer calibration in terms of BR/15 on 'Capital Buffers of Credit Institutions authorised under the Banking Act 1994' shall include more than three (3) scenarios.
23. The range of scenarios shall include slow-moving and fast-moving adverse events.
24. The system-wide and idiosyncratic events shall relate to events that are the most relevant to the institution or group as described in paragraph 17(a) above.

The scenarios shall therefore be based on different events to those specified in paragraphs 25 and 26 below where the latter are less relevant for the institution or group as indicated in paragraph 17(a) above.

System wide events

25. In designing scenarios based on system-wide events the relevance of at least the following system-wide events shall be taken into account:
- a. the failure of significant counterparties affecting financial stability;
 - b. a decrease in liquidity available in the inter-bank lending market;
 - c. increased country risk and generalised capital outflow from a significant country of operation of the institution or the group;
 - d. adverse movements in the price of assets in one or several markets; and;
 - e. macroeconomic downturn.

Idiosyncratic events

26. In designing scenarios based on idiosyncratic events the relevance of at least the following idiosyncratic events shall be taken into account:
- a. the failure of significant counterparties;
 - b. damage to the institution's or group's reputation;
 - c. a severe outflow of liquidity;
 - d. adverse movements in the prices of assets to which the institution or group is predominantly exposed;
 - e. a severe credit losses; and
 - f. a severe operational risk loss.

PART II: MINIMUM LIST OF QUALITATIVE AND QUANTITATIVE RECOVERY PLAN INDICATORS

27. This Part implements the revised EBA *Guidelines on Recovery Plan Indicators (EBA/GL/2021/11)* and includes the minimum list of quantitative and qualitative recovery plan indicators, to be included in the recovery plans developed by credit institutions and Union parent undertakings, as applicable, and assessed in accordance with regulations 5 to 9 of the Regulations and also specified in Articles 3 to 21 of Commission Delegated Regulation (EU) 2016/107 (as may be amended from time to time), the appropriate arrangements for the regular monitoring of such indicators, the points at which actions referred to in the recovery plans may be taken, the action to be taken in relation to these indicators and any condition necessary for the application of regulation 9 of the Regulations with regard to these indicators.
28. For credit institutions and Union parent undertakings that are not part of a group subject to consolidated supervision pursuant to the Supervisory Consolidation (Credit Institutions) Regulations (S.L. 371.22), the requirements apply at the individual level. For credit institutions and Union parent undertakings that are part of a group subject to consolidated supervision pursuant to the Supervisory Consolidation (Credit Institutions) Regulations (S.L. 371.22), these requirements shall apply at the level of the Union parent undertaking and at the level of the subsidiaries.
29. For the purpose of this Part, the following definitions shall apply:
- a. 'overall recovery capacity' (ORC) means the capability of restoring the financial position of an institution, a Union parent undertaking or of a group, as applicable, in their entirety following a significant deterioration;
 - b. 'recovery plan' means the recovery plan set out in regulations 5 and 6 of Regulations and the group recovery plan set out in regulations 7 and 8 of the Regulations;

Setting the Framework of Recovery Plan Indicators

30. The framework of recovery plan indicators shall be established by the credit institution and, or Union parent undertaking, as applicable, and as shall be assessed by the authority taking into consideration the criteria laid down in the following paragraphs.

31. The recovery plan shall contain detailed information on the decision-making process with regard to the activation of the recovery plan as an essential element of the governance structure, based on an escalation process using the indicators set out in the relevant framework and in accordance with regulation 9(1) of the Regulations, as applicable.
32. In defining this framework, institutions, and Union parent undertakings, as applicable, shall consider that indicator breaches do not automatically activate a specific recovery option but indicate that an escalation process shall be started to decide whether to take action or not.
33. Institutions and Union parent undertakings, as applicable, shall include recovery plan indicators of both a quantitative and qualitative nature.
34. While setting the quantitative recovery plan indicator thresholds, consistently with its overall general risk management framework in accordance with Article 5(4) of Commission Delegated Regulation (EU) 2016/1075, the institution and Union parent undertaking, where applicable, shall use progressive metrics ('traffic light approach') in order to inform the management body that such indicator thresholds could potentially be reached.

Categories of Recovery Plan Indicators

35. Credit institutions and Union parent undertakings, as applicable, shall include in the recovery plan at least the following mandatory categories of recovery plan indicators which are explained further in this Rule:
 - a. capital indicators;
 - b. liquidity indicators;
 - c. profitability indicators; and
 - d. asset quality indicators.
36. Credit institutions and Union parent undertakings, as applicable, shall include in the recovery plan the two (2) following categories of recovery plan indicators which are explained further in this Rule, unless they provide satisfactory justifications to the authority as to why such categories not relevant to the legal structure, risk profile, size and/or complexity of the institution and, or Union parent undertaking, as applicable (*rebuttable presumption*):

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- a. market-based indicators; and
 - b. macroeconomic indicators.
37. Credit institutions and Union parent undertakings, as applicable, shall include specific recovery plan indicators included in the list per category provided in Annex II to this Rule, unless they provide satisfactory justifications to the authority as to why such specific indicators are not relevant to the legal structure, risk profile, size and/or complexity of the institution and Union parent undertaking, as applicable (rebuttable presumption).
38. When an institution or a Union parent undertaking, as applicable, is rebutting the presumption as set out in the above paragraph for any of the indicators specified in Annex II, where possible it shall replace it with another indicator from the same category which is more relevant. Where replacement is not possible for each indicator from Annex II, institutions and Union parent undertaking, as applicable, shall include in their recovery plans at least one indicator from each of the categories set out in paragraph 36.
39. Credit institutions and Union parent undertakings, as applicable, shall not limit their set of indicators to the minimum list set out in Annex II, and shall give consideration to the inclusion of other indicators following the principles laid down in this Rule and in line with the description of the categories laid down in the following paragraphs of this Rule. Annex III includes a non-exhaustive list with examples of additional recovery plan indicators broken down by categories.
40. The framework of the recovery plan indicators shall:
- a. be adapted to the business model and strategy of the credit institution and Union parent undertakings, as applicable, and be adequate to its risk profile. It shall identify the key vulnerabilities most likely to impact the institution's and the Union parent undertaking's, as applicable, financial situation;
 - b. be adequate to the legal structure, size and complexity of each credit institution and Union parent undertaking, as applicable. In particular, the number of indicators shall be sufficient to alert the institution and Union parent undertaking, as applicable, of the deteriorating conditions in a variety of areas. At the same time, this number of indicators shall be adequately targeted and manageable by the credit institution and Union parent undertaking, as applicable;
 - c. be aligned with the overall risk management framework and with the existing liquidity or capital contingency plan indicators, and business continuity plan indicators;

- d. allow for regulator monitoring and be integrated into the credit institution's and Union parent undertaking's, as applicable, governance and within the escalation and decision-making procedures; and
- e. include forward-looking indicators.

Requirements for the Calibration of Recovery Plan Indicators

41. For the calibration of the indicator framework the institution and the Union parent undertaking, as applicable shall take into account the following:
- a. The ORC of available options: institutions and Union parent undertakings, as applicable, with a more limited ORC shall consider an earlier breach of recovery plan indicators to maximise chances of successful implementation of their more limited recovery options;
 - b. The timeframe and complexity of the implementation of recovery options, considering governance arrangements, regulatory approvals required in all relevant jurisdictions and potential operational impediments to execution. Institutions and Union parent undertakings, as applicable, which rely on options that are more complex to execute and are likely to take more time to implement shall have indicators calibrated accordingly in a more conservative way, to allow sufficient advance warning;
 - c. At which stage of the crisis the recovery option can realistically be used effectively. In considering this aspect, the institution and Union parent undertakings, as applicable, shall take account of the fact that for some types of options the full benefits could be difficult to reach later in the stress situation as opposed to early implementation. For example, in the case of the recovery option of 'raising capital in the market' an institution and Union parent undertakings, as applicable, shall consider if and when this can realistically be achieved. Institutions and Union parent undertakings, as applicable, shall acknowledge that it might become more difficult to raise external capital the closer the institution and Union parent undertaking, as applicable, comes to breaching its capital requirements;
 - d. The pace of deterioration in a crisis. Institutions and Union parent undertakings, as applicable, shall acknowledge that, while the pace of deterioration will ultimately depend on the specific circumstances of the crisis, specific institutions' and Union

parent undertakings' profiles, as applicable, including but not limited to institutions and Union parent undertakings, as applicable, with a less diversified business model as well as other individual circumstances, may result in swifter deterioration of the institution's financial position and in a shorter timeframe being available for the implementation of recovery options. In this respect, institutions and Union parent undertakings, as applicable, shall also consider using indicators showing deterioration over time to detect situations in which a rapid and substantial deterioration of an institution's and Union parent undertaking's, as applicable, financial position (e.g. capital) occurs. Moreover, monitoring the change in a metric shall be considered where it is difficult to define a single point in time where escalation is needed;

- e. The institution's and Union parent undertaking's, as applicable, risk management framework (including the ICAAP) and risk appetite framework. An institution and Union parent undertaking, as applicable, shall ensure that the calibration of recovery plan indicators is consistent with its risk management and risk appetite framework (e.g. early warning framework, contingency and business continuity plans).
42. An institution and Union parent undertaking, as applicable, shall be able to provide the competent authority with an explanation of how the calibrations of the recovery plan indicators have been determined and to demonstrate that the thresholds would be breached early enough to be effective.
43. The appropriateness of the calibrations of the recovery plan indicators shall be regularly monitored and, pursuant to regulation 5(2) of the Regulations, updated at least annually or more frequently where the update, as proposed by the institution and Union parent undertaking, as applicable, is needed due to a change in the financial and business situation of the institution and Union parent undertaking, as applicable. Any update in the calibration of recovery plan indicators shall be promptly and duly notified, explained and justified to the competent authority.

Actions and Notifications upon Breaching an Indicator

44. For indicator breaches to effectively fulfil their warning potential, in line with internal procedures specified in their recovery plans pursuant to Article 5(3)(a) of Commission Delegated Regulation (EU) 2016/1075, institutions and Union parent undertakings, as applicable, shall promptly and in any event:

- a. within one business day of the breach of the recovery plan indicator, alert the institution's and Union parent undertaking's management body, as applicable, by activating the appropriate escalation process in order to ensure that any breach is considered and, where relevant, acted upon; and
 - b. at the latest within one additional business day following the internal escalation referred to in (a) above, notify the recovery plan indicator breach to the relevant competent authority.
45. Where a recovery plan indicator has been breached, the management body of the institution and Union parent undertaking, as applicable, shall, also on the basis of Article 9(1) of Directive 2014/59/EU and, or regulation 9 of the Regulations, assess the situation, decide whether recovery actions shall be taken and notify its decision promptly to the competent authority.
46. The decision taken by the institution and Union parent undertaking, as applicable, referred to in the previous paragraph shall be based on a reasoned analysis of the circumstances surrounding the breach. Where that decision is for the institution and Union parent undertaking, as applicable, to take action in accordance with the recovery plan, the competent authority shall be provided with an action plan based on a list of potential credible and feasible recovery options for use in this stress situation and a time plan to remediate the breach. If no action has been decided, the explanation provided to the competent authority shall clearly articulate the reasons why and, where appropriate, demonstrate how the restoration of specific types of indicators and their breaches is possible without the use of recovery measures.
47. Any action or option taken or considered by the institution and Union parent undertaking, as applicable, following an indicator breach, even if previously not included in the recovery plan, shall be deemed relevant for the communication with the competent authority. Indicatively, for that purpose, recovery options shall include measures which are extraordinary in nature as well as measures that could also be taken in the course of normal business as referred to in Article 8 of Commission Delegated Regulation (EU) 2016/1075 (e.g. from contingency measures to the more extreme and radical recovery options).
48. The final decision on the potential activation of the recovery plan remains with the institution and Union parent undertaking, as applicable, it is not automatically triggered by a breach. After the breach notification, the competent authority will actively engage with the institution and Union parent undertaking, as applicable.

Arrangements for monitoring recovery plan indicators

49. The monitoring of recovery plan indicators by the institution and Union parent undertaking, as applicable, shall be set at an adequate frequency and allow for the timely submission of the indicators to the competent authority upon request.
50. When requested by the competent authority, the institution and Union parent undertaking, as applicable, shall be able to provide it with values for its full set of recovery plan indicators (breached or not) at least on a monthly basis, even if the values for the indicators have not changed. The competent authority will consider requesting such information with an increased frequency, in particular in crisis situations or where one or more recovery plan indicators have been breached, having regard to the nature and speed of the crisis (fast or slow moving) and the type of indicator (e.g. liquidity indicators).

Recover Plan Indicators

Capital Indicators

51. Capital indicators shall identify any significant actual and likely future deterioration in the quantity and quality of capital in a going concern, including increasing level of leverage.
52. While selecting capital indicators, credit institutions and Union parent undertakings, as applicable, shall consider ways to address the issues stemming from the fact that the capacity of such indicators to allow for a timely reaction can be lower than for other types of indicators, and certain measures to restore an institution's and Union parent undertaking's, as applicable, capital position can be subject to longer execution periods or greater sensitivity to market and other conditions. In particular this can be achieved by means of establishing forward-looking projections, which shall consider material contractual maturities relating to capital instruments.
53. The capital indicators shall also be integrated into the credit institution's and Union parent undertaking's, as applicable, Internal Capital Adequacy Assessment Process (ICAAP) pursuant to article 17C of the Act, and its existing risk management framework.
54. The thresholds for indicators based on regulatory capital requirements shall be calibrated at adequate levels in order to ensure a sufficient distance from a breach of the capital requirements (including minimum own funds requirements as specified in Article 92 of Regulation (EU) 575/2013 and additional own funds requirements applied pursuant to Article 104(1)(a) of

Directive 2013/36/EU and, or regulation 9 of the Banking Act (Supervisory Review) Regulations (S.L. 371.16).

55. In line with the objective of the recovery process and the flexibility given to the institution and Union parent undertaking, as applicable, to act independently when breaching indicators, regulatory capital indicators shall be set at a level higher than those that will allow supervisory intervention.
56. Generally, capital indicators shall be calibrated above the combined capital buffer requirement. Where an institution and Union parent undertaking, as applicable, calibrates its capital indicators within the buffers, it shall clearly demonstrate in its recovery plan that its recovery options can be implemented in a situation where the buffers have been totally or partially used.
57. The thresholds for indicators related to the requirements set out in Articles 45c and 45d of Directive 2014/59/EU (minimum requirement for own funds and eligible liabilities – MREL) and, or regulations 45C and 45D of the Regulations, and Article 92a or 92b of Regulation (EU) No 575/2013 (TLAC), expressed as percentages of the total risk exposure amount (TREA) and total exposure measure (TEM), shall be aligned with the calibration of the regulatory capital recovery plan indicators and they shall be set at a level above the one allowing the resolution authority's intervention in accordance with Article 16a of Directive 2014/59/EU and, or regulation 16A of the Regulations, and Article 128 of Directive 2013/36/EU and, or BR/15 on 'Capital Buffers of Credit Institutions Authorised under the Banking Act'. The threshold shall be generally calibrated above the combined buffer requirement when considered in addition to (i) the TLAC minimum requirement and (ii) the final MREL or the binding intermediate target levels of MREL (if different) expressed as percentages of TREA. The institution and Union parent undertaking, as applicable, shall also take into account any additional element considered relevant when determining those requirements, including a subordination requirement, as applicable. If an institution and Union parent undertaking, as applicable, shall decide to calibrate indicators related to MREL and TLAC within the buffers, it needs to clearly demonstrate in its recovery plan that its recovery options can be implemented in a situation where the buffers have been totally or partially used.
58. The indicator threshold shall take into account the maturity profile of eligible liabilities and the ability to roll them over. For groups with an MPE resolution strategy, where the prudential and resolution scopes might differ, the institution and Union parent undertaking, as applicable, shall calibrate the consolidated level MREL/TLAC indicators for each of the resolution entities/groups.
59. The threshold calibration for MREL will be agreed by the competent authority in consultation with the resolution authority when making their assessment of the recovery plan. Upon being notified by the institution and Union parent undertaking, as applicable, of a breach of the MREL indicator, the competent authority will inform the resolution authority and cooperate with it considering

the importance of MREL to the resolution objectives under Article 31 of Directive 2014/59/EU and, or regulation 31 of the Regulations.

Liquidity Indicators

60. Liquidity indicators shall be able to inform a credit institution and Union parent undertaking, as applicable, of the potential for, or an actual deterioration of the capacity of the institution and Union parent undertaking, as applicable, to meet its current and foreseen liquidity and funding needs.
61. The credit institution's and Union parent undertaking's, as applicable, liquidity indicators shall refer to both the short-term and long-term liquidity and funding needs of the institution and Union parent undertaking, as applicable, and capture the institution's and Union parent undertaking's, as applicable, dependence on wholesale markets and retail deposits, distinguishing among key currencies where relevant.
62. The liquidity indicators shall be integrated with the strategies, policies, processes and systems developed by each credit institution and Union parent undertaking, as applicable, pursuant to Article 86 of Directive 2013/36/EU and, or regulation 10 of the Banking Act (Supervisory Review) Regulations (S.L. 371.16) and its existing risk management framework.
63. The liquidity indicators shall also cover other potential liquidity and funding needs, such as the intra-group funding exposures and those stemming from off-balance structures.
64. The thresholds for liquidity indicators shall be calibrated by the institution, and Union parent undertaking, as applicable, at adequate levels in order to be able to inform the institution and Union parent undertaking, as applicable, of potential and/or actual risks of not complying with those minimum requirements (including additional liquidity requirements pursuant to Article 105 of Directive 2013/36/EU and, or Section 36 of BR/24 on Internal Governance, if applicable)
65. The thresholds for indicators based on regulatory liquidity requirements (LCR and NSFR indicators) shall therefore be calibrated above the minimum requirements of 100%.
66. To calibrate the thresholds of the liquidity position, the institution and Union parent undertaking, as applicable, shall consider liquidity metrics used for internal monitoring, reflecting its own assumptions on the liquidity that could realistically be derived from sources not taken into account in the regulatory requirements. For this, the institution and Union parent undertaking, as

applicable, could consider the amounts of the counterbalancing capacity (CBC), other liquidity sources (e.g. deposits with other credit institutions) and any other relevant adjustments. When establishing forward-looking indicators, the institution and Union parent undertaking, as applicable, shall assess which maturity to consider, according to the institution's and Union parent undertaking's, as applicable, risk profile, and then take into account the estimated inflows and outflows.

Profitability Indicators

67. Profitability indicators shall capture any credit institution's and Union parent undertaking's, as applicable, income-related aspect that could lead to a rapid deterioration in the credit institution's and Union parent undertaking's, as applicable, financial position through lowered retained earnings (or losses) impacting on the own funds of the credit institution and Union parent undertaking, as applicable.
68. This category shall include recovery plan indicators referring to operational risk-related losses which may have a significant impact on the profit and loss statement, including but not limited to, conduct-related issues, external and internal fraud and/or other events.

Asset Quality Indicators

69. Asset quality indicators shall measure and monitor the asset quality evolution of the credit institution and Union parent undertaking, as applicable. More specifically, they shall indicate when asset quality deterioration could lead to the point at which the credit institution and Union parent undertaking, as applicable, shall consider taking an action described in the recovery plan.
70. The asset quality indicators shall include both a stock and a flow ratio of non-performing exposures in order to capture their level and dynamics.
71. The asset quality indicators shall cover aspects such as off-balance sheet exposures and the impact of non-performing loans on the asset quality.

Market – Based Indicators

72. Market-based indicators aim to capture the expectations from market participants of a rapidly deteriorating financial condition of the institution and Union parent undertaking, as applicable, that could potentially lead to disruptions in access to funding and capital

markets. In accordance with this objective, the framework of qualitative and quantitative indicators shall refer to the following types of indicators:

- a. equity-based indicators which capture variations in the share price of listed companies, or ratios that measure the relationship between the book and market value of equity;
- b. debt-based indicators, capturing expectations from wholesale funding providers such as credit default swaps or debt spreads;
- c. portfolio-related indicators, capturing expectations in relation to specific asset classes relevant to each credit institution and Union parent undertaking, as applicable, (e.g. real estate); and
- d. rating downgrades (long term and/or short term) as they reflect expectations of the rating agencies that can lead to rapid changes in the expectations from market participants of the credit institution's and Union parent undertaking's, as applicable, financial position.

Macroeconomic Indicators

73. Macroeconomic indicators aim to capture signals of deterioration in the economic conditions where the credit institution and Union parent undertaking, as applicable, operates, or of concentrations of exposures or funding.
74. The macroeconomic indicators shall be based on metrics that influence the performance of the credit institution and Union parent undertaking, as applicable, in specific geographical areas or business sectors that are relevant for the institution and Union parent undertaking, as applicable.
75. The macroeconomic indicators shall include the following typologies:
 - a. geographical macroeconomic indicators, relating to various jurisdictions to which the credit institution and Union parent undertaking, as applicable, is exposed, giving also consideration to risks stemming from potential legal barriers; and
 - b. sectoral macroeconomic indicators, relating to major specific sectors of economic activity to which the credit institution and Union parent undertaking, as applicable, is exposed (e.g. shipping, real estate).

PART III: COVERAGE OF ENTITIES IN A GROUP RECOVERY PLAN

76. Regulation 7 of the Regulations provides specific requirements for group recovery plans. In terms of the said regulation, a group recovery plan shall consist of a recovery plan for the group headed by the Union parent undertaking as a whole and that the plan shall identify measures which may be required to be implemented at the level of the Union parent undertaking and each individual subsidiary.
77. This Part specifies how legal entities and branches (entities or group entities) shall be covered in the group recovery plan, drawn up and submitted in accordance with Articles 5 to 9 of Directive 2014/59/EU and, or articles 5 to 9 of the Regulations and Articles 3 to 21 of Commission Delegated Regulation (EU) No 2016/1075.
78. Only as far as the first initial recovery plan submission is concerned, the consolidating supervisor and the competent authority, involved in the joint decision process referred to in Article 8 of Directive 2014/59/EU and, or regulation 8 of the Regulations, shall not request the submission of individual plans where the following conditions are satisfied:
 - a. individual plans are deemed necessary to ensure a smooth migration to the group recovery plan of the recovery planning information currently available at the local level; and
 - b. these individual plans are communicated to the consolidating supervisor and are fully consistent with the group recovery plan.

Identification and Classification

79. For the purposes of the group recovery plan, the Union parent undertaking shall identify all group entities, falling within the scope of prudential consolidation, including their branches. For group entities established in a third country, their coverage in the group recovery plan shall also take into account, as appropriate, the applicable regime for recovery planning in the country of their establishment.
80. Credit institutions shall identify branches that are relevant for the group or for the economy including for the financial system of one or more Member States, and subsequently cover them as specified further below in this Rule, either as part of the legal entity that they belong to, or independently, where that is deemed appropriate on the basis of the structure of the group. This shall take

into account monitoring, escalation and decision-making procedures as well as the implementation of the recovery options. In the former case, the coverage of that legal entity also needs to include, where appropriate, the specific information related to the branch. The Union parent undertaking shall in both cases ensure that any branch-specific information necessary, as specified below, is effectively included in the group recovery plan.

81. Furthermore, branches that have been identified as significant in accordance with the *EBA-GL-2017-14* shall be covered in the group recovery plan as a material entity, being relevant either for the local economy, the group or for the economy of any of the Member State.
82. Branches which are not material because they are not relevant for the group nor for the economy of any Member State need not be identified in the group recovery plan separately from the legal entity to which they belong. Similarly, entities that are designated as O-SII (Other-Systemically Important Institutions), shall also be individually and specifically covered in the group recovery plan being either group relevant entities or locally relevant entities.
83. This Part of the Rule addresses the coverage of entities within a group recovery plan for groups under a Union parent undertaking. Given this, branches of institutions that have their head office in a third country, are outside the scope of application of this Part.

Classifying Entities and Branches

84. On the basis of the strategic analysis performed in accordance with Article 7 of Commission Delegated Regulation (EU) No 2016/1075, and in particular on the basis of the mapping of the core business lines and critical functions to the legal entities and branches of the group in accordance with paragraph 1(b) of that Article, the Union parent undertaking shall ensure that the group entities identified as per this section are classified into the following categories:
 - a. entities that are relevant for the group ('group-relevant entities');
 - b. entities that are relevant for the economy, including for the financial system, of one or more Member States ('locally relevant entities'); and
 - c. entities that are not relevant for the group or for the economy of any Member State.

85. The Union parent undertaking shall designate as relevant for the group any entity that meets one or more of the conditions of Article 7 (2) (a-e) of Commission Delegated Regulation (EU) 2016/1075, regardless of the relevance of this entity for the economy, including for the financial system, of any Member State.
86. The Union parent undertaking shall designate as relevant for the economy, including for the financial system, of one or more Member States any entity that, without being relevant for the group in the meaning of the previous paragraph, is nevertheless, on account of the critical functions which it performs as per the mapping referred to in Article 7 (1) (b) of Commission Delegated Regulation (EU) No 2016/1075, important for the economy, including for the financial system, of one or more Member States.
87. The Union parent undertaking shall designate as not relevant for the group nor for the economy of any Member State, any group entity falling outside the categories referred to in the previous two paragraphs.
88. The Union parent undertaking shall ensure that the coverage of group entities in the group recovery plan is carried out in a way that results in a single, complete, integrated and fully consistent recovery plan for the group as a whole.
89. The Union parent undertaking shall involve the management of those group entities that have been designated as material, being group or locally relevant, both in the preparation and in the approval phase of the group recovery plan. The Union parent undertaking shall ensure that the relevant management is well aware of the group recovery plan, has provided relevant input and is committed to its implementation.

Group Relevant Entities

90. The Union parent undertaking shall ensure that all group relevant entities are adequately addressed in an extensive and detailed manner, in all sections of the group recovery plan, and in accordance with the following paragraphs.

Governance

91. Governance arrangements and escalation procedures shall be elaborated in such a way as to describe the decision-making process across the group. This shall be ensured in a way that enables the authority to see the flow of decision-making and decision-execution processes and the input that is to be provided

for informing the decisions, both with respect to the flow of information from the parent undertaking to the entities and vice-versa.

92. The group recovery plan shall provide clarity on its development, adoption, review and update, including the involvement of functions at the level of the subsidiaries and the coordination with the corresponding functions of the Union parent undertaking. Furthermore, it shall be ensured that the management of the entity is adequately involved in the decision on the group plan, at least concerning the parts relevant for that particular entity.
93. The group recovery plan shall also clarify how the conditions and procedures necessary to ensure the timely implementation of recovery options at the level of relevant entities are coordinated with those at the Union parent undertaking level. Both the parent undertaking and the relevant entities shall operate in line with the group recovery plan, to avoid misaligned and inconsistent actions.
94. While assessing the group recovery plan, the authority shall be able to quickly identify the consistency of internal escalation and decision-making processes that apply when recovery indicators have been met.
95. Governance arrangements and escalation procedures shall be adequately specified for all entities for which the recovery plan contains (entity-level) recovery indicators. In particular, the recovery plan shall describe how timely and adequate notification of the consolidating supervisor and all the competent authorities of subsidiaries and branches will be ensured.
96. Adequate information shall also be provided in the recovery plan on the level of interconnectedness of these entities with the rest of the group, the economy and the financial system of their respective Member States.

Indicators, Options and Scenarios

97. For group-relevant entities, recovery indicators shall be considered at entity-specific level, e.g. depending on the business and governance model of the group. If such entity-specific indicators are considered relevant, they shall be included in the group recovery plan, in addition to those specified at the group level to which the provisions on recovery indicators in this Rule above apply. Such indicators shall be appropriately chosen and calibrated to reflect the specificities of the entities and shall be accompanied by appropriate escalation procedures.
98. The group recovery plan shall consider relevant entity-specific recovery plan indicators for entities that support core business lines and critical functions.

99. The group recovery plan shall also include a sufficient number of credible options that could restore the group and its entities to viability following a stress situation. This may include, where appropriate, the orderly divestment of an entity identified as group relevant or locally relevant. Where an entity carries out critical function, the Union parent undertaking shall clarify how any critical functions provided by that entity will be preserved during the divestment process.
100. The choice of appropriate recovery options among group-wide or entity-specific actions shall be consistent with how the group is organised both in terms of its business model, internal governance and, where relevant, local regulatory requirements. The group recovery plan shall include an estimate of the possible impact that the implementation of each recovery option is expected to have, not just on the entity where the option is activated, but on all potentially affected group-relevant entities. It shall have a particular focus on the implications for the continuity of the critical functions and other group interdependencies. This includes an analysis of any internal and/or external communication needs, resulting in a communication plan as part of the implementation of each option where appropriate.
101. The impact of group-wide or local scenarios on group-relevant entities shall be clearly set out in the group recovery plan even though the need to design separate and specific scenarios for these entities shall proportionately depend on the business model of the group.
102. Where the business model of a group-relevant entity is unique and there is little interaction between entities, so that a group-wide scenario would not capture all risks involved, then entity-specific scenarios may be included as far as appropriate in the group recovery plan. Where core business lines and critical functions performed by such entities are already covered by group scenarios, it shall not be necessary to design separate scenarios for those group-relevant entities.
103. The group recovery plan shall also include one scenario where economic or financial distress is generated at the level of the Member State of the individual entity, but then spreads to the group, and might prevent the Union parent undertaking from supporting the individual entity.

Locally Relevant Entities

104. For locally relevant group entities, the group recovery plan shall focus on restoring the financial position and ensuring operational continuity, thereby ensuring that critical functions are preserved in the event of distress. To that end, all critical functions of these entities shall be identified in the group recovery plan.

Governance

105. The focus for the locally relevant entities in the group recovery plan shall be on the escalation procedures, differentiating between instances when it is necessary to move the decision-making process from the entity to the Union parent undertaking and when the parent is informed of but not involved in the decisions.
106. Governance arrangements and escalation procedures shall be described for all the entities for which recovery plan indicators at entity level are considered necessary. Specifying governance arrangements (as per Article 5(1)(a) of Commission Delegated Regulation (EU) No 2016/1075) for the development and maintenance of the plan in respect of the individual entity shall not be considered necessary, except where a different assessment is made in the context of the joint decision process referred to in regulation 8 of the Regulations. The fact that governance arrangements for maintenance and update of the recovery plan may not be deemed necessary does not absolve the institution from submitting the recovery plan in accordance with regulations 5 to 8 of the Regulations.
107. The group recovery plan shall include enough information on internal escalation and decision-making procedures and on the consistency between governance arrangements, allowing the possibility for the recovery plan to be activated, both at level of the group entity and at the level of the Union parent undertaking. Where, in accordance with the plan, activation can also take place at the level of the group entities, the local management of these entities shall also be involved in the decision-making process, and such evidence shall be included in the plan.
108. The group recovery plan shall also provide clarity on the ability of the group to effectively implement recovery options at the local level where necessary, as well as on those options that are implemented at the group level but have an impact on local critical functions.
109. The recovery plan shall give information on the conditions under which the group management can effectively implement recovery options at the local level. Furthermore, it shall be ensured that the management of the entity is adequately involved in drafting the group plan, at least concerning the parts relevant to the specific entity.

Indicators, Options and Scenarios

110. For the purposes of the group recovery plan, the inclusion of indicators for entities to which critical functions are mapped shall be considered.

111. Where the inclusion of entity-specific indicators, as referred to in the previous paragraph, has been considered necessary, such indicators shall be appropriately calibrated to reflect the specificities of the entities as well as any residual entity-specific risks, and be accompanied by appropriate escalation procedures.
112. The group plan shall include a sufficient amount of credible options that could restore the group and its entities to viability following a stress situation. This may include where appropriate, the orderly divestment of an entity identified as locally relevant. Where an entity carries out critical functions the Union parent undertaking shall clarify how any critical functions provided by that entity will be preserved during the divestment process.
113. The choice of appropriate recovery options among group-wide or entity-specific actions shall be consistent with the objective to preserve critical functions provided by the entity taking into account how the group is organised in terms both of its business model and internal governance and, where relevant, local regulatory requirements. To that end, the group recovery plan shall include an assessment of key recovery options with a particular focus on the implications for the continuity of the critical functions, taking into account all relevant group interdependencies.
114. Specific scenarios relating to the locally relevant entity shall not be considered as necessary, as long as the impact of group-wide scenarios is also deemed significant for these entities.
115. If relevant, the group recovery plan might also include one scenario where economic distress is generated at the level of the Member State of the individual entity, but then spreads to the group, and might prevent the Union parent undertaking from supporting the individual entity.

Entities Not Relevant for the Group or Economy

116. Coverage of those entities in the group recovery plan shall be concise, for example by means of a chart or table, and shall focus on information necessary to identify those entities and briefly describe their position in the group's overall strategy. To this end, the plan shall, where appropriate and in a general manner, ensure that governance arrangements allow information on a distress situation at the local level to be swiftly transmitted upwards to the parent undertaking and the authority and vice-versa.
117. Any significant impacts of recovery options on these entities shall generally be noted in the group recovery plan, where appropriate, taking account the group structure.

PART IV: GROUP FINANCIAL SUPPORT

118. This Part of this Rule implements the EBA Guidelines specifying the conditions for group financial support under Article 23 of the Directive 2014/59/EU (EBA/GL/2015/17) as may be amended from time to time. Article 23 of the Directive 2014/59/EU is transposed in regulation 23 of the Regulations.
119. This Part governs the conditions applicable for the requirements emanating from sub-paragraphs (b), (d), (f), (g) and (h) of regulation 23(1) of the Regulations as well as the process for the authority in relation to the assessment required with the entities referred to below.
120. For the purpose of this Part, the following definitions, shall apply in line with the Act and the applicable Regulations:
- a. 'Providing entity' means the group entity providing the financial support;
 - b. 'Receiving entity' means the group entity receiving the financial support;
 - c. 'Combined buffer requirement' has the meaning defined in the BR/15 on Capital Buffers;
 - d. 'Subsidiary' has the meaning defined in point (16) of Article 4(1) of Regulation (EU) No 575/2013;
 - e. 'Principal' means (i) if financial support is provided in the form of a loan, the principal of the loan; (ii) if financial support is provided in the form of a guarantee or security, the liability arising for the receiving entity if the guarantee or the security is enforced;
 - f. 'Best interest' should be understood in accordance with the description laid down in regulation 19(7), sub-paragraph (b) of the Regulations.

The Conditions for Group Financial Support

121. In determining whether the provision of financial support has the objective of preserving or restoring the financial stability of the group as a whole, the authority and the providing entity shall analyse and compare:
- a. the direct and indirect overall benefits for the group as a whole (i.e. the sum of the benefits for any group entity) resulting from a restoration of the financial soundness of the receiving entity and

- the overall risks for the financial position of the group to be expected should the support not be provided, and the risk of a default of the receiving entity in this case, with
- b. the risks for the group resulting from the provision of financial support, including the default risk of the receiving entity and the loss to the group given default after receiving the support.
122. In assessing whether the provision of financial support is in the interest of the providing entity, the authority and institutions shall analyse and compare:
- a. the direct and indirect overall benefits for the providing entity resulting from a restoration of the financial soundness of the receiving entity and the overall risks for the financial position of the providing entity to be expected should the support not be provided, and the risk of a default of the receiving entity in this case, with
 - b. the risks for the providing entity resulting from the provision of financial support, including the default risk of the receiving entity and the loss to the providing entity given default of the receiving entity after receiving the support. The analysis of the default risk of the receiving entity shall be based on the elements set out in Article 2 of the RTS specifying the conditions for group financial support under Article 23 of Directive 2014/59/EU. This is without prejudice to considering on a case by-case basis and at the discretion of the competent authority responsible for the providing entity, for the purpose of the comparative analysis of benefits and risks, further relevant elements the providing entity would consider in a credit assessment when deciding on granting a loan on the basis of all information available to the providing entity.
123. The analysis under paragraphs 122 and 123 shall take into account the requirements of sound capital and liquidity management at individual entity and group level and any existing internal policies and procedures to manage and restrict intra-group transactions. The analysis shall include potential damage to franchise, refinancing and reputation and benefits from efficient use and fungibility of the group's capital resources and its refinancing conditions. Where possible, institutions shall estimate the monetary value of the costs and benefits that are not quantified.
124. When assessing whether there is a reasonable prospect that the consideration for financial support will be paid and that the principal will be reimbursed on their respective due dates, the providing entity and the authority shall conduct an adequate analysis of all the risk factors which may influence the ability of the receiving entity to meet these obligations or potential obligations on their

due dates, and the receiving entity's default risk, considering in particular the following:

- a. whether the receiving entity's capital and liquidity needs, identified by a description of its capital and liquidity situation and by a projection of its capital and liquidity needs, are covered for a sufficient period of time, taking into account all relevant sources from which these needs could be met;
- b. whether measures planned for a restructuring of the receiving entity and a revision of its business model and risk management can efficiently support the restoration of the financial situation of the receiving entity in accordance with the planned schedule and permit a full repayment of the principal and consideration on their due dates; and
- c. an analysis of the financial situation of the receiving entity and of the internal and external causes for the financial difficulties, in particular of the business model and the risk management of the receiving entity, and of past, present and expected market conditions, to support the conclusions under (a) and (b).

The underlying assumptions in the descriptions and projections mentioned in points (a) to (c) shall be coherent and plausible and take into account the stressed condition of the receiving entity, current market conditions and potential adverse developments. The authority will take into account information and assessments provided by the competent authority responsible for the receiving entity.

125. When assessing whether the provision of financial support would create a threat to financial stability, in particular in the Member State of the group entity providing the support, the providing entity and the authority shall analyse at least the following factors:
 - a. the significance of the providing entity for the financial stability of the Member State where it is established, of other Member States and of the Union, taking into account interdependencies between the providing entity and other entities which are significant for financial stability, in particular through membership in an institutional protection scheme in accordance with Article 113(7) of Regulation (EU) No 575/2013;
 - b. the financial condition of the providing entity and of the group members which are significant for its stability;
 - c. the probability of future developments having a negative impact on the providing entity or on group members which are significant for the stability of the providing entity, or on the financial stability

of the Member State where the providing entity is established, of other Member States or of the Union; and

- d. the risk that the provision of the support will divest the providing entity of the liquidity or assets which will be necessary to support other group members that are important for the stability of the group and financial stability in the near future.
126. When analysing the impacts on financial stability in the Member State where the receiving entity is authorised, the authority shall take into account information and assessments provided by the competent authority responsible for the receiving entity.
127. With respect to compliance with the capital requirements of Directive 2013/36/EU, including Article 104(2) of Directive 2013/36/EU and or regulation 9 of the Banking Act (Supervisory Review) Regulations (S.L. 371.16), and to the potential infringement of these requirements by the provision of financial support, providing entities and competent authorities shall apply the following:
- a. The providing entity shall submit to the authority a reasoned statement that the institution meets these capital requirements and that the provision of the support would not result in a decrease in the providing entity's capital ratio to a level where the combined buffer requirement is no longer met, or the providing entity will have to apply for authorisation of non-compliance with these requirements.
 - b. If the providing entity does not meet the combined buffer requirement, or the provision of the support would result in a decrease in the providing entity's capital ratio to a level where the combined buffer requirement would no longer be met, the authority will decide whether to authorise the provision despite this non-compliance based on the capital conservation plan for the providing entity. The provision of the support shall be consistent with the capital conservation plan.
 - c. When assessing whether to authorise the provision of support despite non-compliance with the abovementioned requirements in the light of the capital conservation plan, the authority will assess the plausibility of the capital conservation plan and take into account in particular the following:
 - i) the expected timeframe for the restoration of the Common Equity Tier 1 capital of the providing entity;
 - ii) the significance of the capital shortfall;

- iii) the best interest of the providing entity, including indirect benefits resulting from the stabilisation of the group as a whole;
 - iv) the purpose of the capital buffers concerned; and
 - v) the risks and benefits of the authorisation for financial stability.
- d. Without prejudice to points (a), (b) and (c) above, if the providing entity is a subsidiary of the receiving entity, or the providing entity and the receiving entity are subsidiaries of the same group entity, the authority, when assessing whether to authorise the provision of support despite non-compliance with these requirements, will also take into account whether the provision of the financial support is necessary to prevent:
- i) the failure of the receiving entity, which would otherwise be likely;
 - ii) the destabilisation of the group as a whole resulting from this failure; and
 - iii) adverse effects on financial stability resulting from the destabilisation of the group. The authority will take into account information provided by the competent authority responsible for the receiving entity.
- e. If the competent authority for the providing entity authorises the provision of support despite non-compliance, it will specify the maximum duration and the conditions of the authorisation despite non-compliance in its decision.
- f. Points (a) to (e) are without prejudice to any waiver pursuant to Articles 7 or 15 of Regulation (EU) No 575/2013.
128. With respect to compliance with the liquidity requirements of Directive 2013/36/EU, including Article 105 of Directive 2013/36/EU and, or regulation 10 of the Banking Act (Supervisory Review) Regulations (S.L. 371.16) providing entities and the authority shall apply the following:
- a. The providing entity shall either submit to the authority a reasoned statement that the institution meets the applicable liquidity requirements and that the provision of the support would not result in a liquidity outflow such that applicable liquidity requirements under Articles 86 and, or Section 36 of the BR/24 on Internal Governance, and 105 of Directive 2013/36/EU and, or regulation 10 of the Banking Act (Supervisory Review)

Regulations (S.L. 371.16) would not be met, or the providing entity will have to apply for authorisation of non-compliance with these requirements.

- b. If the providing entity does not meet applicable liquidity requirements or the provision of the support would result in a liquidity outflow such that applicable liquidity requirements under Articles 86 and, or Section 36 of the BR/24 on Internal Governance and 105 of Directive 2013/36/EU and, or regulation 10 of the Banking Act (Supervisory Review) Regulations (S.L. 371.16) are no longer met, the authority will decide whether to authorise the provision despite this non-compliance. In this situation, the institutions shall submit a plan for eliminating the non-compliance to the authority.
- c. When assessing whether to authorise the provision of support despite non-compliance with the abovementioned requirements, the authority will take into account the following:
 - i) the period of time during which the providing entity does not comply with the relevant liquidity limits;
 - ii) the significance of the non-compliance;
 - iii) the providing entity's plan for eliminating the non-compliance;
 - iv) the best interest of the providing entity, including indirect benefits resulting from the stabilisation of the group as a whole; and
 - v) the risks and benefits of the authorisation for financial stability.
- d. Without prejudice to points (a), (b) and (c) above, if the providing entity is a subsidiary of the receiving entity, or the providing entity and the receiving entity are subsidiaries of the same group entity, the authority, when assessing whether to authorise the provision despite non-compliance, will also take into account whether the provision of the financial support is necessary to prevent
 - i) the failure of the receiving entity, which would otherwise be likely;
 - ii) the destabilisation of the group as a whole resulting from this failure, including indirect benefits resulting from the stabilisation of the group as a whole; and
 - iii) adverse effects on financial stability resulting from the destabilisation of the group.

- iv) The authority will take into account information provided by the competent authority responsible for the receiving entity.
 - e. If the competent authority for the providing entity authorises the provision despite non-compliance with any of these liquidity requirements, it will specify the maximum duration and the conditions of the authorisation despite non-compliance in its decision.
 - f. (Points (a) to (e) above are without prejudice to any waiver of liquidity requirements pursuant to Article 8 of Regulation (EU) No 575/2013.
129. In determining whether the provision of financial support complies with the large exposures requirements of Directive 2013/36/EU and Regulation (EU) No 575/2013, providing entities and the authority shall assess:
- a. whether the providing entity complies with the relevant provisions of Regulation (EU) No 575/2013 relating to large exposures, including any national legislation exercising the options provided therein, at the time the support is provided; and
 - b. whether, post provision of the support, the providing entity will continue to comply with the relevant provisions of Regulation (EU) No 575/2013 relating to large exposures, including any national legislation exercising the options provided therein.
130. If provision of the support would cause the providing entity to cease to comply with the relevant limitations of Regulation (EU) No 575/2013 relating to large exposures, including any national legislation or supervisory decisions of general application exercising options provided in those provisions, the authority will decide whether to authorise the provision of support despite this non-compliance, taking into account the following:
- a. the period of time during which the providing entity does not comply with the relevant exposure limits;
 - b. the significance of the non-compliance;
 - c. the providing entity's plan for eliminating the non-compliance;
 - d. the best interest of the providing entity, including indirect benefits resulting from the stabilisation of the group as a whole; and
 - e. the risks and benefits of the authorisation for financial stability.

If the competent authority for the providing entity authorises the provision despite the infringement of any large exposures requirement,

it will specify the maximum duration and the conditions of the authorisation despite non-compliance in its decision.

PART V: OVERALL RECOVERY CAPACITY IN RECOVERY PLANNING

131. This Part implements the EBA Guidelines on ORC in recovery planning (EBA/GL/2023/06) (the 'EBA Guidelines on ORC'), which include requirements and guidance to institutions in setting up the framework for the determination of the ORC. Institutions shall include in the recovery and group recovery plans a summary of their overall recovery capacity in accordance with Articles 5 and 7 and Annex, Section A, point (1) of Directive 2014/59/EU and with Chapter 1, Section II of Commission Delegated Regulation (EU) 2016/1075.
132. The aim of this Part of the Rule is to implement and provide an overview of the requirements outlined in the EBA Guidelines on ORC, and therefore the Rule must be read and shall be applied in conjunction with such Guidelines, taking into consideration any amendments and/or updates that may be undertaken to such Guidelines from time to time. Unless otherwise specified in the EBA Guidelines on ORC, terms used and defined in the Act and regulations issued thereunder shall have the same meaning in this Rule.

Setting the ORC framework

133. Institutions shall determine a comprehensive list of recovery options and a range of scenarios of severe macroeconomic and financial stress, followed by a selection of all the recovery options that could be used under each specific scenario. Only recovery options that are deemed to be credible and feasible by institutions shall be considered when determining the ORC.¹
134. In the process of determining the ORC, institutions shall calculate their recovery capacity specific for the relevant scenarios envisaged in the recovery plan. To calculate this, institutions shall draw up a plausible severe scenario leading to a breach of requirements as specified in the EBA Guidelines on ORC. In the exceptional circumstances where the institution argues that it is not possible to draw up such a scenario, it shall provide to the Authority a detailed explanation on why that specific scenario should still be considered severe enough to threaten its failure.

¹ In accordance with Title II, Chapter I, Section II of Directive 2014/59/EU, with Articles 8 to 12 of Commission Delegated Regulation 2016/1075 and in line with the general factors set out in the EBA Guidelines.

135. The ORC shall be determined as a range of the 'scenario-specific recovery capacities' for all the relevant scenarios in the recovery plan. When calculating the 'scenario-specific recovery capacity', institutions shall first consider the breach of any recovery plan indicator that would result in a decision to implement one or more recovery options. With respect to the assessment of the expected timeframe for the recovery option, institutions shall consider the specific features of the options and the type of events included in the scenario. Institutions shall follow the time horizons for an impact on capital and/or liquidity as stipulated in the EBA Guidelines on ORC.
136. Institutions shall express their scenario-specific recovery capacity at least for the relevant recovery plan indicators as indicated in the EBA Guidelines on ORC. In cases where these indicators are not included in the framework, the recovery capacity shall be expressed in terms of the respective substitute indicators. Institutions shall also include in their recovery plans the nominal amounts underlying their computations of the relevant indicators. The sum of the impacts of the recovery options shall be reported, represented in terms of the relevant indicators over time.
137. When determining the ORC, institutions shall consider additional constraining factors related to simultaneous or sequential implementation of recovery options and employ a dynamic balance sheet approach, whereby the impacts stemming from recovery options under a specific scenario should consider the effects of the recovery options used previously, if any, under the same scenario. Furthermore, in determining the ORC range, institutions shall consider the highest and lowest scenario-specific recovery capacity respectively in terms of capital and liquidity relevant indicators, using the relevant scenarios for each of these dimensions.

Annex I: Categories of Recovery Plan Indicators

Categories of recovery plan indicators: (the first four categories are mandatory, while the last two categories may be excluded if an institution, and Union parent undertaking, as applicable, justifies that they are not relevant for it)
<i>Mandatory categories</i>
1. Capital indicators
2. Liquidity indicators
3. Profitability indicators
4. Asset quality indicators
<i>Categories subject to rebuttable presumption</i>
5. Market-based indicators
6. Macroeconomic indicators

Annex II: Minimum list of Recovery Plan Indicators

Minimum list of recovery plan indicators: (each indicator is subject to the possibility for an institution, and Union parent undertaking, as applicable, to justify that it is not relevant for it, however in such a case it should be substituted with another indicator which is more relevant)
<i>1. Capital indicators</i>
a) Common Equity Tier 1 ratio
b) Total Capital ratio
c) Leverage ratio
d) MREL and TLAC (where relevant)
<i>2. Liquidity indicators</i>
a) Liquidity Coverage Ratio
b) Net Stable Funding Ratio
c) Available central-bank eligible unencumbered assets
d) Liquidity position
<i>3. Profitability indicators</i>
a) (Return on Assets) or (Return on Equity)
b) Significant operational losses
<i>4. Asset quality indicators</i>
a) Growth rate of gross non-performing loans
b) Coverage ratio [Provisions / (Total non-performing loans)]
<i>5. Market-based indicators</i>
a) Rating under negative review or rating downgrade
b) CDS spread
c) Stock price variation
<i>6. Macroeconomic indicators</i>
a) GDP variations
b) CDS of sovereigns

Annex III: Illustrative list of Additional Recovery Plan Indicators

Additional recovery plan indicators (non-exhaustive list provided for illustration purposes only)
<i>1. Capital indicators</i>
a) (Retained earnings and Reserves) / Total Equity
b) Adverse information on the financial position of significant counterparties
<i>2. Liquidity indicators</i>
a) Concentration of liquidity and funding sources
b) Cost of total funding (retail and wholesale funding)
c) Average tenure of wholesale funding
d) Contractual maturity mismatch
e) Cost of wholesale funding
<i>3. Profitability indicators</i>
a) Cost-income ratio (Operating costs / Operating income)
b) Net interest margin
<i>4. Asset quality indicators</i>
a) Net non-performing loans / Equity
b) (Gross non-performing loans) / Total loans
c) Growth rate of impairments on financial assets
d) Non-performing loans by significant geographic or sector concentration
e) Forborne exposures/ Total exposures
<i>5. Market-based indicators</i>
a) Price to book ratio
b) Reputational threat to the institution or significant reputational damage
<i>6. Macroeconomic indicators</i>
a) Rating under negative review or rating downgrade of sovereigns
b) Unemployment rate