
STATUTORY INSTRUMENTS

2014 No. 3348

The Bank Recovery and Resolution (No. 2) Order 2014

PART 16

Cross-border group resolution

CHAPTER 5

Group resolution involving a group subsidiary where
neither the PRA nor the FCA is the consolidating supervisor

Application Chapter 5

203. This Chapter applies where, in relation to a relevant group—

- (a) neither the PRA nor the FCA is the consolidating supervisor; and
- (b) the Bank decides that a group subsidiary meets the conditions for resolution (“the failing subsidiary”).

Bank decision that group subsidiary meets the conditions for resolution

204.—(1) The Bank must give the group-level resolution authority and the other members of the college a notice—

- (a) stating that it has decided that the failing subsidiary meets the conditions for resolution; and
- (b) proposing measures for taking resolution action or insolvency proceedings in respect of the failing subsidiary.

(2) The Bank may take the notified measures unless it receives a proposal for a group resolution scheme from the group-level resolution authority within—

- (a) 24 hours beginning with the time at which it gives a notice under paragraph (1); or
- (b) such longer period as it may allow the group-level resolution authority for making a relevant assessment.

(3) Where the Bank receives a proposal for a group resolution scheme within the period referred to in paragraph (2), it must defer a decision to take the notified measures or other resolution action or measures in respect of the failing subsidiary until it has taken steps to reach a joint decision on the adoption of a group resolution scheme under article 205.

(4) In this article “relevant assessment” means an assessment of the impact that the notified measures would have on other group entities, including an assessment of whether the measures would make it likely that a group entity set up in another EEA State would meet the conditions for resolution.

Joint decision on adoption of group resolution scheme

205. The Bank must endeavour to reach a joint decision on the adoption of a group resolution scheme with the group-level resolution authority and other resolution authorities which are members of the college.

Failure to reach joint decision: disagreement by the Bank with joint proposals

206.—(1) Where the Bank, having taken account of the group resolution plan and any resolution plans adopted for group subsidiaries—

- (a) disagrees with a proposal for a group resolution scheme, or
- (b) considers that it needs to take independent resolution action or other measures in respect of the failing subsidiary in the interest of financial stability,

it must give the group-level resolution authority and the other members of the college a notice which set out in detail its reasons for disagreement or independent action and what resolution action or other measures it intends to take in respect of the failing subsidiary.

(2) The Bank must include in its reasons for disagreement an assessment of the potential impact of the resolution action or other measures that it intends to take in respect of the failing subsidiary on other group entities and on the financial stability of other EEA States whose resolution authorities are members of the college.

(3) The Bank must take resolution action and other measures in respect of the failing subsidiary in close co-operation with the other members of the college with a view to ensuring that there is a co-ordinated strategy for applying the resolution tools and exercising the resolution powers⁽¹⁾ in respect of group entities.

(4) Co-operation under paragraph (3) includes informing the other members of the college regularly and fully about the action and other measures being taken and progress being made.

Requesting the assistance of EBA

207. The Bank may ask EBA to assist the resolution authorities in accordance with Article 31(c) of the EBA Regulation to reach a joint decision on the adoption of a group resolution scheme for the relevant group.

(1) For the meaning of “resolution power” see the recovery and resolution directive, Article 2.1, point (20).