
STATUTORY INSTRUMENTS

2014 No. 3348

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

PART 8

Early intervention

CHAPTER 2

Early intervention with respect to groups where the PRA or FCA is the consolidating supervisor

Application and interpretation of Chapter 2

110.—(1) This Chapter applies where the PRA or FCA is the consolidating supervisor in relation to a relevant group.

(2) In this Chapter—

“measure for early intervention”—

- (a) in relation to a UK group entity, has the same meaning as in Chapter 1;
- (b) in relation to a non-UK group entity, means a measure of a kind specified in subparagraphs (a) to (h) of Article 27.1 of the recovery and resolution directive;

“non-UK group entity” means—

- (a) the EEA parent undertaking, if it is set up in another EEA State;
- (b) a group subsidiary which is an institution set up in another EEA State; and

“UK group entity” means—

- (a) the EEA parent undertaking, if it is set up in the United Kingdom;
- (b) a group subsidiary which is an institution authorised by the PRA or FCA.

Procedure for early intervention in respect of a UK group entity

111.—(1) This article applies where the appropriate regulator proposes to take a measure for early intervention in respect of a UK group entity.

(2) The appropriate regulator must without delay give notice of its proposal to the Bank, the relevant competent authorities and the EBA.

(3) The appropriate regulator may not take a measure for early intervention in respect of a UK group entity without—

- (a) allowing three days, beginning with the day on which it gives notice under paragraph (2), for consultation with the relevant competent authorities about the proposal; and
- (b) taking account of the potential impact of the measure on group entities set up in another EEA State and the stability of the financial system of that State.

(4) The appropriate regulator must give the recipients of a notice given under paragraph (2) notice of a decision to take a measure for early intervention in respect of a UK group entity.

Status: Point in time view as at 10/01/2015.

Changes to legislation: There are currently no known outstanding effects for the The Bank Recovery and Resolution (No. 2) Order 2014, CHAPTER 2. (See end of Document for details)

(5) The appropriate regulator may not take a measure for early intervention without prescribing a date before which the action required to be taken in compliance with the measure is to be completed.

(6) The appropriate regulator must give the UK group entity referred to in a notice given under paragraph (4) and the EEA parent undertaking, if it is not the entity concerned, written notice of its decision to take a measure for early intervention, including a reasoned account of the decision.

Procedure for early intervention in respect of a non-UK group entity

112.—(1) This article applies where the appropriate regulator receives notice of a proposal by a relevant competent authority to take a measure for early intervention in respect of a non-UK group entity.

(2) If the appropriate regulator decides to assess the impact that the notified measure would have on any group entity or on the relevant group as a whole, it must make the assessment and send it to the relevant competent authority within three days beginning with the day on which it receives the notice referred to in paragraph (1).

Joint decisions about early intervention

113.—(1) Where two or more competent authorities decide to take measures for early intervention, the appropriate regulator must endeavour to reach a decision jointly with the relevant competent authorities on whether to co-ordinate the implementation of such measures.

(2) The appropriate regulator must endeavour to reach a joint decision on that matter—

- (a) where it gives notice of a proposal to take a measure for early intervention in respect of a UK group entity (“UK notice”) before it receives notice of a proposal by a relevant competent authority to take a measure for early intervention in respect of a non-UK group entity (“non-UK notice”), within five days beginning with the date on which it receives the first non-UK notice;
- (b) where it gives a UK notice after it receives the first non-UK notice and before it receives a second non-UK notice, within five days beginning with the date on which it gives the UK notice;
- (c) otherwise, within five days beginning with the date on which it receives a second non-UK notice.

(3) The appropriate regulator must give the EEA parent undertaking written notice of a joint decision under this article, including a reasoned account of the decision.

References to EBA

114.—(1) Where, before the end of the period referred to in article 111(3)(a) (“the consultation period”), a relevant competent authority has referred to EBA in accordance with Article 19 of the EBA Regulation any matter relating to a proposal by the appropriate regulator to take a referable measure in respect of a UK group entity, the appropriate regulator must—

- (a) defer its decision on the proposal for three days beginning with the date on which the consultation period ends; and
- (b) ensure that the decision conforms with any decision taken by EBA under Article 19.3 of the EBA Regulation within three days beginning with the date on which the consultation period ends.

(2) The appropriate regulator may, within the period referred to in article 112(2), refer to EBA in accordance with Article 19 of the EBA Regulation any matter relating to a proposal by a relevant competent authority to take a referable measure in respect of a non-UK group entity.

(3) Paragraphs (4) and (5) apply where no joint decision has been reached under article 113(1) within the period referred to in article 113(2) (“the 5 day period”).

(4) Where, before the end of the 5 day period, a relevant competent authority has referred to EBA in accordance with Article 19 of the EBA Regulation any matter relating to a proposal by the appropriate regulator to take a referable measure in respect of a UK group entity, the appropriate regulator must—

- (a) defer its decision on the proposal for three days beginning with the date on which the 5 day period ends; and
- (b) ensure that the decision conforms with any decision taken by EBA under Article 19.3 of the EBA Regulation within three days beginning with the date on which the 5 day period ends.

(5) The appropriate regulator may, within the 5 day period, refer to EBA in accordance with Article 19 of the EBA Regulation any matter relating to a proposal by a relevant competent authority to take a referable measure in respect of a non-UK group entity.

(6) For the purposes of a reference to EBA of a matter to which paragraph (4) or (5) refers the 5 day period is deemed to be the conciliation phase referred to in Article 19.2 of the EBA Regulation.

(7) In this article “referable measure” means a measure for early intervention which is also—

- (a) a measure of the kind specified in sub-paragraph (a) of Article 27.1 of the recovery and resolution directive relating to information included in a recovery plan or group recovery plan by virtue of points (4), (10), (11) and (19) of Section A of the Annex to that directive (information to be included in recovery plans); or
- (b) a measure of the kind specified in sub-paragraph (e) or (g) of Article 27.1 of that directive.

Requesting the assistance of EBA

115. The appropriate regulator may ask EBA to assist the competent authorities in accordance with Article 31(c) of the EBA Regulation to reach a joint decision on the matter referred to in article 113(1).

Status:

Point in time view as at 10/01/2015.

Changes to legislation:

There are currently no known outstanding effects for the The Bank Recovery and Resolution (No. 2) Order 2014, CHAPTER 2.