

To
European Banking Authority
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(submitted via EBA website)

Subject
Reaction ING Bank to EBA/CP/2014/21: draft guidelines on
triggers for use of early intervention measures pursuant to
Article 27(4) of Directive 2014/59/EU

Date
12 December 2014

Introduction

Please find the response of ING Bank N.V. to the European Banking Authority (EBA) consultation paper on draft guidelines on triggers for use of early intervention measures pursuant to Article 27(4) of Bank Recovery & Resolution Directive (BRRD, Directive 2014/59/EU).

ING Bank welcomes the opportunity that EBA offers to share our view on the draft guidelines that specify triggers for use of early intervention measures. We are supportive of the concept of early intervention in case it can prevent an identified weakness from developing into a threat to safety and soundness of a banking institution. Please find our response to the specific questions posed below.

Question 1: Do you have any general comments on the draft Guidelines on triggers for the use of early intervention measures?

In the consultation paper it is stated that: *"The triggers provided in these Guidelines do not oblige competent authorities to automatically apply early intervention measures in any case. Neither do the Guidelines prevent competent authorities from applying early intervention measures where such triggers are not met, but competent authorities see a clear need for early intervention"*.

This statement supports the view of ING that any hard triggers are difficult to define and should not be the only basis for early intervention. Imposing early intervention measures should always be based on thorough investigation, dialogue between the parties involved and expert judgement rather than competent authorities limiting themselves to defining hard triggers that are closely linked to the outcomes of SREP.

Question 2: Do you consider the level of detail used in the draft Guidelines to be appropriate?

The fact that competent authorities will still have complete freedom as to whether or not to impose any early intervention measures, suggests that the level of detail used in the draft guidelines is still quite ambiguous on the essential issue. On the one hand, the guidelines go into detail on specifics of how the SREP outcome could be used as a basis for early intervention measures, but does not give guidance on the process that should be followed when any of those triggers is breached. We support a 5-step process that could be followed:

- Gain a thorough understanding on why triggers are breached
- Open the dialogue with the bank
- Challenge the points that need further investigation and qualification
- Draw conclusions based on the in-depth analysis
- Make recommendation and impose early intervention measures if need be.

Question 3: Do you have any comments on the proposed specification of early intervention triggers based on the outcomes of SREP?

Imposing early intervention measures (or classifying a banking institution as “failing or likely to fail” for that matter) based on a 4- or F- score in the SREP outcome appears to be changing the meaning and significance of the SREP evaluation.

The SREP assessment is set up as an annual exercise in which a ‘snap shot’ of an institution’s capital (and liquidity) position is taken based on year-end figures. The SREP was conceived to promote understanding and dialogue between the parties involved and now the grades of the SREP outcome are proposed to become the basis of early intervention measures. The early intervention measures can, however, also be triggered on the basis of other circumstances which are not immediately factored into the outcomes of the SREP assessment. They can be triggered by material deterioration or anomalies identified in the monitoring of key indicators performed as part of SREP, even before the assessment of the respective SREP element is updated. In particular, developments such as capital markets not providing funding anymore for a prolonged period of time or a significant increase of deposit holders exiting should be identified as a basis for imposing early intervention measures. The SREP outcome therefore does not seem to be an appropriate tool to define any triggers for early intervention.

As an alternative to using the overall or individual SREP scores as the starting point for the assessment we would consider using the monitoring indicator framework that is used as part of recovery planning (art. 9 BRRD) . Actions based on that indicator framework seem to be an appropriate starting point for possible further investigation and dialogue. Any early intervention measures, if deemed necessary, should be based on expert judgment. This would ensure that the assessment is done on the basis of up to date figures and the actual position of the relevant institution and financial markets and would be a

practical approach as a monitoring system with regard to recovery planning is already in place in institutions.

The yearly SREP outcome could in our view still be used, but not be the basis of the assessment on the need of early intervention or classifying an institution as “failing or likely to fail”.

Question 4: Do you have any comments on the proposed approach to use material deterioration or anomalies in key indicators in deciding whether there is a need to apply early intervention measures?

As an alternative to using the overall or individual SREP scores as the starting point for the assessment we would consider the use (or not) of the recovery actions referred to in the recovery plan (art. 9 BRRD). This would ensure that the assessment is done on the basis of up to date figures and the actual position of the relevant institution and financial markets.

Question 5: Do you have any comments on the proposed description of significant events that should be considered as possible triggers for the decision whether to apply early intervention measures?

The proposed description of significant events that should be considered as possible triggers that could call for the need of early intervention measures are indeed events that, for some, could lead to early intervention measures. Significant outflow of retail deposits and significant downgrades by one or more external rating agencies seem to be indicators of a more advanced crisis. The other proposed significant events should however be considered as trigger for the 5-step process as described under question 2. Those significant events can very well be monitored under the indicator framework used for recovery planning.

Question 6: Do you agree with our analysis of the impact of the proposals in this Consultation Paper? If not, can you provide any evidence or data that would explain why you disagree or might further inform our analysis of the likely impacts of the proposals?

We do not agree with the analysis of the impact of the proposals in this Consultation paper as we are of the opinion that the SREP assessment and SREP outcome are not suitable as a trigger for use of early intervention measures. The indicator framework used for the purpose of recovery planning seems to be more appropriate as a starting point. Further investigation at that point might subsequently trigger early intervention measures based on expert judgment.
