

Translated from Finnish

Legally binding only in Finnish and Swedish

Ministry of Finance, Finland

Decree of the Ministry of Finance on matters to be taken into account when assessing the resolvability of a credit institution, investment firm or group

1285/2014

In accordance with a decision of the Ministry of Finance, the following is enacted by virtue of chapter 3, section 3 of the Act on Resolution of Credit Institutions and Investment Firms (1194/2014):

Section 1

Scope of application

This Decree lays down provisions on the matters that shall be taken into account by the Financial Stability Authority when assessing the resolvability of institutions as referred to in chapter 3, section 1 and of groups as referred to in chapter 3, section 2 of the Act on Resolution of Credit Institutions and Investment Firms.

Section 2

Matters to be taken into account when assessing resolvability

When assessing the resolvability of an institution or group, the Financial Stability Authority shall consider at least the following:

- 1) the extent to which the institution is able to map core business lines and critical operations to legal persons;
- 2) whether the institutions' legal and corporate structures are aligned with core business lines and critical operations;
- 3) whether there are arrangements in place to provide for essential staff, infrastructure, funding, liquidity and capital to support and maintain the core business lines and the critical operations;
- 4) whether the service agreements that the institution maintains are fully enforceable in the event of resolution of the institution;

- 5) whether the governance structure of the institution is adequate for managing and ensuring compliance with the institution's internal policies with respect to its service agreements;
- 6) whether the institution has a process for transitioning the services provided under service level agreements to third parties in the event of the separation of critical functions or of core business lines;
- 7) whether there are contingency plans and measures in place to ensure continuity in access to payment and settlement systems;
- 8) whether the management information systems are adequate to ensure that the Financial Stability Authority is able to gather accurate and adequate information regarding the core business lines and critical operations so as to facilitate rapid decision-making;
- 9) whether the management information systems have the capacity to provide the information essential for the effective resolution of the institution at all times even under rapidly changing conditions;
- 10) whether the institution has tested its management information systems under stress scenarios as defined by the Financial Stability Authority;
- 11) whether the institution can ensure the continuity of its management information systems both for the affected institution and the new institution in the case that the critical operations and core business lines are separated from the rest of the operations and business lines;
- 12) whether the institution has established adequate practices to ensure that it provides the Financial Stability Authority with the information necessary to identify depositors and the amounts covered by the deposit guarantee schemes;
- 13) where the group uses intra-group guarantees, whether those guarantees are provided at market conditions and the robustness of the risk management systems concerning those guarantees;
- 14) where the group commits to agreements between two group companies by which the risk arising from an agreement between a group company and a third party is transferred, in part or in full (back-to-back trading arrangements), the extent to which those agreements are performed at market conditions and the risk management systems concerning those agreements are robust;

- 15) whether the use of intra-group guarantees or agreements between two group companies by which the risk arising from an agreement between a group company and a third party is transferred, in part or in full (back-to-back trading arrangements) increases contagion across the group;
- 16) whether the legal structure of the group inhibits the application of the resolution tools as a result of the number of legal persons, the complexity of the group structure or the difficulty in aligning business lines to group entities;
- 17) the amount and type of eligible liabilities of the institution;
- 18) where the assessment involves a mixed activity holding company, whether the resolution of group entities that are institutions or financial institutions could have a negative impact on the non-financial part of the group;
- 19) the existence and robustness of service agreements;
- 20) whether third-country authorities have the resolution tools necessary to support resolution actions by the resolution authorities of EEA States, and the scope for coordinated action between EEA State resolution authorities and third-country authorities;
- 21) the feasibility of using resolution tools in such a way which meets the resolution objectives, given the tools available and the institution's structure;
- 22) whether the group structure allows the Financial Stability Authority to resolve the whole group or one or more of its group entities without causing a significant direct or indirect adverse effect on the financial system, market confidence or the economy and with a view to maximising the value of the group as a whole;
- 23) the arrangements and means through which resolution could be facilitated in the cases of groups that have subsidiaries established in different jurisdictions;
- 24) the credibility of using resolution tools in such a way which meets the resolution objectives, given possible impacts on creditors, counterparties, customers and employees and possible actions that third-country authorities may take;

25) whether the impact of the institution's resolution on the financial system and on financial market's confidence can be adequately evaluated;

26) whether the resolution of the institution could have a significant direct or indirect adverse effect on the financial system, market confidence or the economy;

27) whether contagion to other institutions or to the financial markets could be contained through the application of the resolution tools and powers;

28) whether the resolution of the institution could have a significant effect on the operation of payment and settlement systems.

The provisions laid down in subsection 1 concerning institutions shall apply to the group member entity referred to in chapter 1, section 2, subsection 2, paragraphs 1 and 2 of the Act on Resolution of Credit Institutions and Investment Firms when assessing the resolvability of the group.

Section 3

Entry into force

This Decree enters into force on 1 January 2015.