

Finansinspektionen's Regulatory Code

Publisher: Finansinspektionen, Sweden, www.fi.se
ISSN 1102-7460



This translation is furnished for information purposes only and is not itself a legal document.

Regulations

amending Finansinspektionen's regulations (FFFS 2016:6) regarding recovery plans, group recovery plans and intra-group financial support agreements;

FFFS 2016:20

Published on 27 June 2016

decided on 20 June 2016.

Finansinspektionen prescribes¹ pursuant to Chapter 5, section 2, point 8 of the Banking and Finance Business Ordinance (2004:329) and Chapter 6, section 1, point 33 of the Securities Market Ordinance (2007:752) in respect of Finansinspektionen's regulations (FFFS 2016:6) regarding recovery plans, group recovery plans and intra-group financial support agreements

in part that current section 4 shall be designated section 14, current sections 5–9 shall be designated sections 4–8 and current section 10 shall be designated section 15,

in part that new section 7 shall have the following wording,

in part that the heading immediately preceding current section 10 shall be placed immediately before the new section 15,

in part that five new sections, 9–13, shall be inserted and new headings immediately preceding sections 9 and 13 shall have the following wording, and

in part that a new heading shall be inserted immediately preceding section 14 with the wording, "Updating recovery plans and group recovery plans".

Section 7 An undertaking shall have appropriate procedures in order to easily and regularly monitor the indicators included in the recovery plan or group recovery plan.

Simplified obligations

Section 9 Finansinspektionen can grant exemptions for credit institutions or securities companies from the requirements set out in section 3 regarding the contents of a recovery plan or a group recovery plan if a failure of the credit institution or securities company and its subsequent winding down through bankruptcy or liquidation as a result of circumstances set forth in the second paragraph probably would not have a significant impact on the financial markets, other undertakings, financing terms or the economy at large, or probably would only have a negligible impact. Such an exemption is granted through a decision pursuant to section 10 or 11.

¹ Cf. Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012 of the European Parliament and of the Council.

During the assessment of whether a credit institution or securities company shall be subject to simplified obligations in accordance with the first paragraph, Finansinspektionen shall take into account

1. the nature of the business conducted by the credit institution or securities company,
2. the ownership structure of the credit institution or securities company,
3. the company structure of the credit institution or securities company,
4. the risk profile of the credit institution or securities company,
5. the size and legal form of the credit institution or securities company,
6. the degree of interconnectedness between the credit institution or the securities company and other undertakings or the financial system in general,
7. the scope and complexity of the activities of the credit institution or securities company,
8. if relevant, membership to an institutional protection scheme or some other scheme for joint liability in accordance with Article 113.7 of the Capital Requirements Regulations, and
9. if relevant, provision of investment services or activities in accordance with the definition set out in Article 4.1.2 of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, in its original wording.

Section 10 Where a failure of a credit institution or securities company probably would not have a significant impact in the manner set out in section 9, first paragraph, a credit institution or securities company, following a decision by Finansinspektionen, shall be covered by a recovery plan or group recovery plan that instead of the content prescribed in section 3 as a minimum contains

1. a summary of the content of the plan, including a summary assessment of the total recovery capacity of the credit institution or securities company if it were to experience financial difficulties,
2. a description of the changes made to the plan since it was first established or the most recent update,
3. a description of the business, risk strategy, business model and business plan of the credit institution or securities company that includes the activities that are of particular importance for earning and profitability and an analysis of which critical functions and links to the financial system in general that the credit institution or securities company may have,
4. a description of how the plan was developed and how it has been updated, who is responsible for establishing the plan, how the plan is incorporated into the governance, risk management and control of the credit institution or securities company, how decisions are made pursuant to the plan and the internal and external communications plans that apply according to the plan,

5. a detailed description of the qualitative and quantitative indicators in respect of capital, liquidity, financing, profitability and asset quality that specifies when decisions shall be made in accordance with the plan as a result of the indicators and how the indicators agree with the credit institution's or the securities company's general risk strategy,

6. a description of the measures that shall be taken pursuant to the plan to maintain or restore the profitability, asset quality and financial position of the credit institution or securities company, including a schedule for implementing the measures,

7. a description of one system-wide and one undertaking-specific scenario, each of which threatens the continuing operation of the credit institution or securities company unless recovery measures are implemented in due time, which specifies how capital, liquidity, risk profile, profitability, operations and reputation are affected in these scenarios, which recovery measures that may be taken in each scenario and how the recovery measures can restore the financial position of the credit institution or the securities company.

8. a description of the preparatory measures that have been taken in order for the plan to be implemented and an analysis of the impediments that may still prevent the implementation of the measures specified in the plan, and

9. an analysis of the need for preparations in order to be able to effectively implement the measures according to plan.

Section 11 Where a failure of a credit institution or securities company probably would only have a negligible impact as referred to in section 9, first paragraph, the credit institution or securities company, following a decision by Finansinspektionen, shall be covered by a recovery plan or group recovery plan that instead of the content prescribed in section 3 as a minimum contains

1. a description of the persons responsible for preparing the plan,

2. a description of how the plan was prepared and how the plan is incorporated into the governance, risk management and control of the credit institution or securities company.

3. a description of the changes made to the plan since it was first established or the most recent update,

4. a description of the business operations that are particularly important for the earnings and profitability of the credit institution or securities company,

5. a description of the qualitative and quantitative indicators in respect of capital and liquidity that specifies when decisions shall be made in accordance with the plan due to the indicators,

6. a description of the measures that shall be taken according to the plan to maintain or restore the financial position of the credit institution or securities company in a scenario where financial difficulties arise at the same time as in the financial markets or the economy at large,

7. a description of the preparatory measures that have been taken in order to be able to implement the plan,

8. a schedule for the measures that shall be taken according to the plan and an analysis of the impediments that may prevent the implementation of the measures, and

9. a summary of the assessment of the total recovery capacity of the credit institution or securities company if financial difficulties were to arise.

Section 12 Finansinspektionen can reassess at any time a decision in accordance with section 10 or 11.

Deadline for preparation of recovery plans and group recovery plans

Section 13 An undertaking shall have prepared a recovery plan or a group recovery plan no later than 1 January 2017. An undertaking subject to a decision made by Finansinspektionen in accordance with Chapter 5, section 3 of the Capital Buffers Act (2014:966) shall instead prepare a recovery plan or group recovery plan no later than 31 October 2016.

These regulations shall enter into force on 15 July 2016.

ERIK THEDÉEN

Erik Kärrlander