



EUROPEAN CENTRAL BANK

BANKING SUPERVISION

ECB-UNRESTRICTED

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Recovery planning: Legal framework and practical experience

The views expressed in this presentation are those of the author and do not necessarily reflect those of the ECB

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Overview

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- 3 Authorities involved in recovery planning
- 4 Assessment of recovery plans
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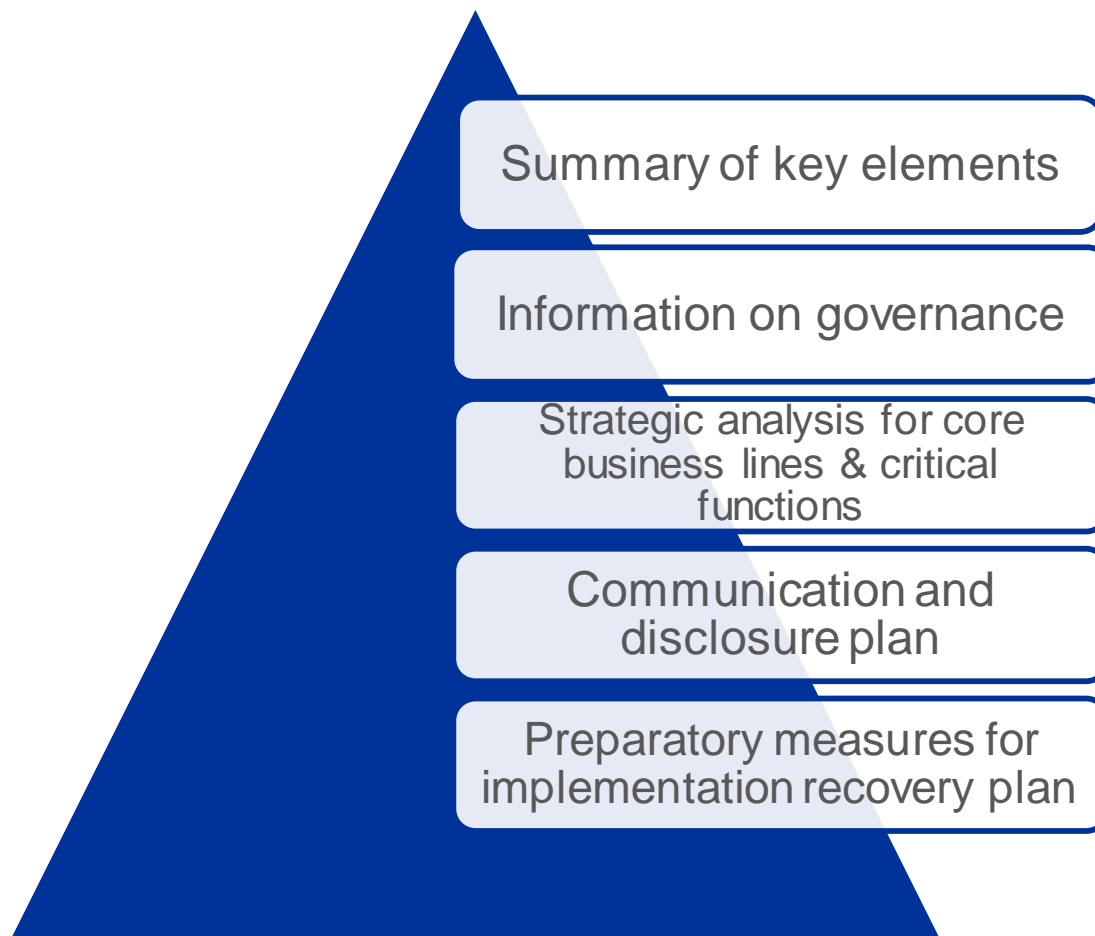
Purpose of recovery planning

- The **BRRD** (Directive 2014/59/EU) has introduced recovery planning as a **new tool** to prevent and address crisis situations
- **Lesson learnt from the crisis:** significant lack of adequate tools to deal effectively with unsound or failing credit institutions
- **The purpose of recovery planning** is “to **identify options** to maintain or restore the **viability and financial position** of an institution when it is subject to **severe stress**”
- **Legal framework:**
 - Title II, Chapter I of the BRRD and national law transposing it
 - Commission Delegated Regulation (EU) No 2016/1075
 - EBA Guidelines

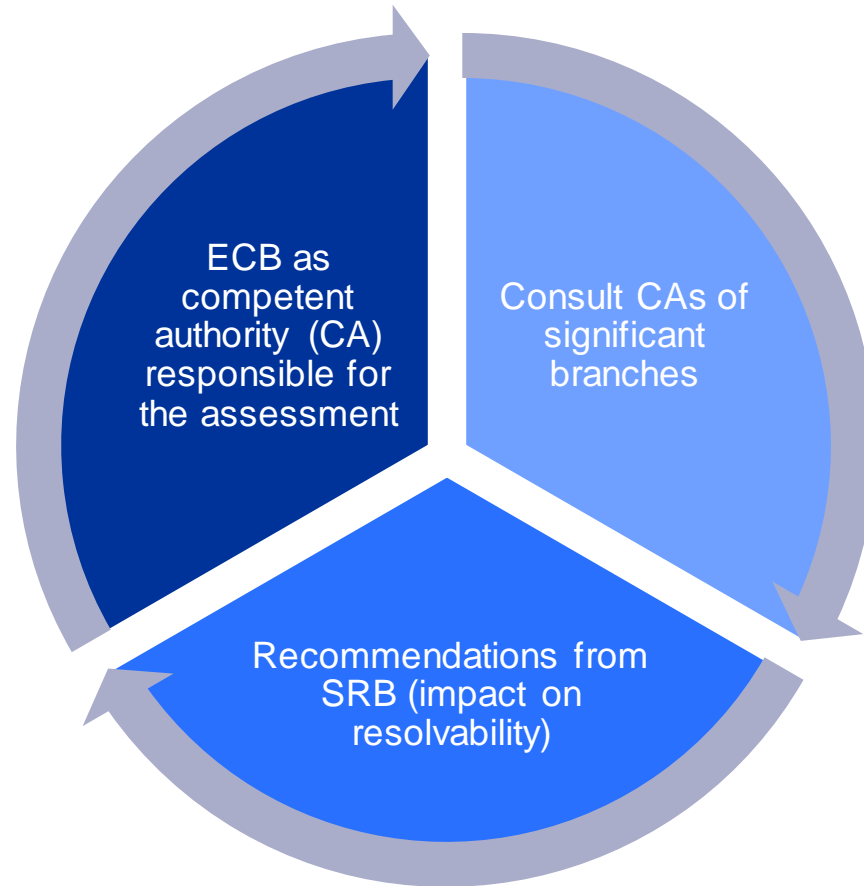
What are institutions expected to do?

- **Scope:** All banking groups/individual credit institutions are required to draw up and maintain a recovery plan
 - must update their recovery plan at least annually; or
 - after a change to the legal or organisational structure, its business or its financial, which could have a material effect
- **Management body** shall assess and approve the recovery plan before submitting it to the competent authority
- **Contents of the plan:**
 - Plans should be institution specific, detailed and based on realistic assumptions
 - Plans must “include appropriate conditions and procedures to ensure the timely implementation of recovery actions as well as a wide range of recovery options”
 - Recovery plans not assume any access to or receipt of extraordinary public financial support
 - Central bank facilities

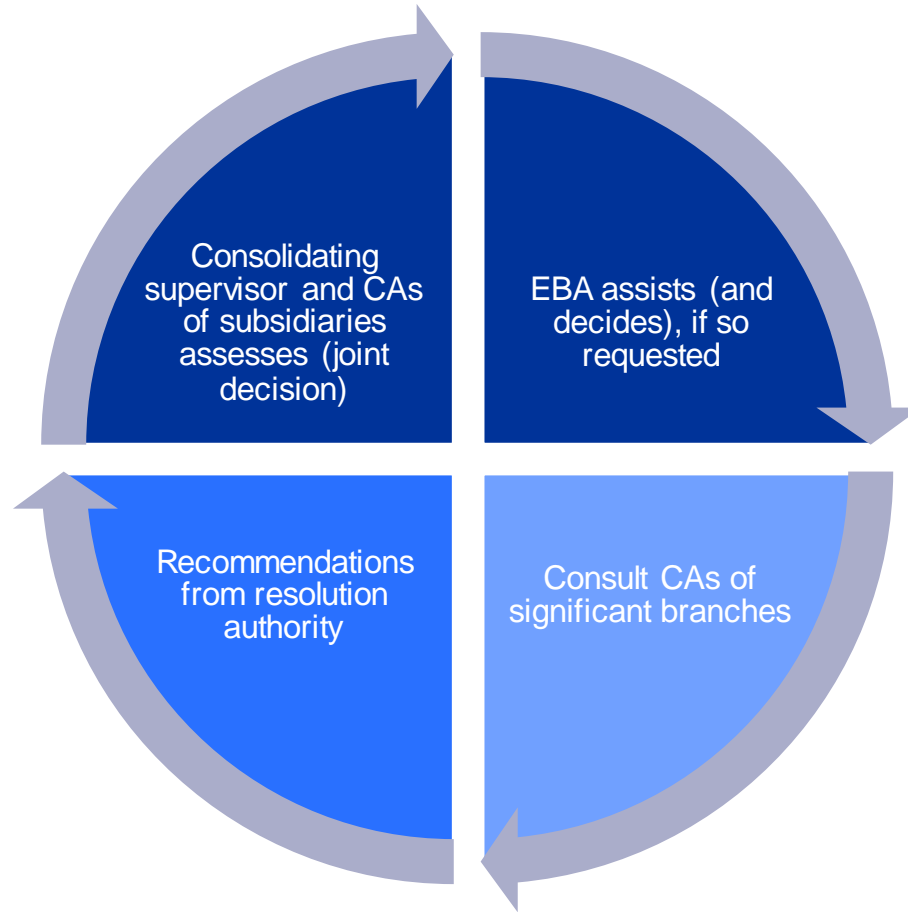
Minimum elements of a recovery plan



Significant institutions within the SSM



Significant institutions with a parent undertaking or a subsidiary outside the SSM



Assessment process

- **Timeline:**

- Competent authorities review and assess the recovery plan within six months;
- College has four months to reach a joint decision.

- **Assessment criteria:**

- the implementation the plan is reasonably likely to **maintain or restore** the **viability** and **financial position** of the institution, taking into account the preparatory measures;
- The plan is reasonably likely to be **implemented quickly** and **effectively** in situations of financial stress and **avoiding** to the maximum extent possible any **significant adverse effect on the financial system**;
- **Appropriateness** of the institution's capital and funding structure to the level of **complexity** of the organisational structure and the **risk profile** of the institution.

Outcome of the assessment

Material deficiencies/ impediments



Require revised plan



If inadequate, direct changes to the recovery plan



If inadequate, require to identify changes to business



If inadequate, direct to take appropriate measures (e.g. reduce risk profile)

Supervisory decision

- Needed to address **material deficiencies**
- Legally binding decision
- **Due process requirements** apply (Right to be heard)
- To be adopted by the Governing Council based on a proposal from the Supervisory Board under the **non-objection procedure**
- Formal notification
- Subject to review by the **Administrative Board of Review** and the **Court of Justice**

Operational act

- For **non-material deficiencies**
- **Legally not binding** (recommendation)
- No right to be heard
- Issued by the **Joint Supervisory Team** in form of a feedback letter
- No remedies available

Lessons learnt from the 2016 exercise

- The review showed a huge **variety** of recovery plans, both in terms of **size** and **quality**
 - **Size**: Some plans were very short and incomplete. Other plans were very long and over-complete (difficult to implement)
 - **Quality**: some recovery plans did not incorporate the legal requirements. Other recovery plans were advanced and established best practices
- **Three areas** for **improvement**
 - Standardised reporting templates in their recovery plans to ensure completeness and enhance comparability
 - Adequate procedures for escalating problems and to enable quick decision making
 - Recovery plans should cover all material entities of a group (of particular importance for cross-border banks)

- Recovery plans are a **useful tool**....
 - The sole act of drawing up recovery plans makes institutions aware of potential problems
 - Institutions are better prepared for potential problems
 - Supervisors are presented with a set of options that they could enforce when needs be

...but **still need to be tested**
- The ECB as a supervisor of 125 banking groups is able to establish **benchmarks** and **best practices** for recovery planning. This helps in assessing the recovery plans in future cycles and to **give further guidance** to enhance the plans.