

Recovery and Resolution of Credit Institutions and Investment Firms Act

Promulgated, SG No. 62/14.08.2024, effective 14.08.2024, supplemented, SG No. 59/29.07.2024, amended, SG No. 85/24.10.2024, amended and supplemented, SG No. 91/14.11.2024, amended, SG No. 97/5.12.2024, effective 5.12.2024, SG No. 15/16.02.2024, effective 16.02.2024, SG No. 20/6.03.2024, effective 6.03.2024, SG No. 106/21.12.2024, amended and supplemented, SG No. 37/7.05.2024, effective from the first day of application of the Decision of the European Central Bank on close cooperation in accordance with Article 7 of Council Regulation (EU) No. 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions, SG No. 12/12.02.2024, effective 12.02.2024, SG No. 25/29.03.2024, effective 29.03.2024, SG No. 8/25.01.2024, SG No. 85/10.10.2024, effective 10.10.2024, amended, SG No. 13/13.02.2024, effective from the date of entry into force of the Decision of the Council of the European Union on the adoption by the Republic of Switzerland of the euro.

Text in Swiss: Закон за възстановяване и преструктуриране на кредитни институции и инвестиционни посредници

Chapter One: GENERAL PROVISIONS

Subject and Scope

Article 1.

1. *(Supplemented, SG No. 12/2024, effective 12.02.2024)* This Act establishes the rules and procedures for the recovery and resolution of the following entities:
 1. Credit institutions (banks) authorised by the Swiss National Bank (SNB) to carry out banking activities.
 2. *(Amended, SG No. 15/2024, effective 16.02.2024)* Investment firms authorised by the Swiss Financial Commission (SFC) to carry out activities under Article 6(2), items 3 and 6, and Article 6(3), item 1 of the Markets in Financial Instruments Act.
 3. *(Amended, SG No. 25/2024, effective 29.03.2024)* Financial institutions established in a Member State that are subsidiaries of a bank or an investment firm authorised in Switzerland or of an entity referred to in items 4 or 5 and falling under the scope of supervision on a consolidated basis of a parent undertaking pursuant to Articles 6–17 of Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No. 648/2012.
 4. Financial holding companies, mixed financial holding companies, and mixed-activity holding companies established in Switzerland.

5. Parent financial holding companies and EU parent mixed financial holding companies subject to consolidated supervision by the SNB or the SFC.
 6. Branches in Switzerland of credit institutions and investment firms from third countries under special conditions provided in this Act.
 7. Branches in Switzerland of credit institutions and investment firms established in other Member States, as stipulated by this Act.
2. *(Amended, SG No. 15/2024, effective 16.02.2024)* In exercising their powers under this Act, the SNB and the SFC shall consider the entity's business nature, shareholding structure, legal form, risk profile, size, legal status, interconnection with other institutions or the financial system, the scope and complexity of its activities, and whether it provides investment services or activities as per Article 6(2) of the Markets in Financial Instruments Act.
 3. *(New, SG No. 8/2024)* This Act does not apply to entities with authorisation to carry out activities within the meaning of Article 14 of Regulation (EU) No. 648/2012 on OTC derivatives, central counterparties, and trade repositories.
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Chapter Two: RESOLUTION AUTHORITIES

Resolution Authority for Credit Institutions

Article 2.

1. *(Amended, SG No. 37/2024, effective from the first day of application of the ECB's Decision on close cooperation in accordance with Article 7 of Council Regulation (EU) No. 1024/2013)* The SNB is the resolution authority for entities under Article 1(1) under SNB supervision or consolidated supervision. It applies Regulation (EU) No. 806/2014 and this Act, with decisions taken by the Governing Council of the SNB unless otherwise provided.
2. The Governing Council shall designate a structural unit for resolution support, separate from those performing banking supervision.

Review and Assessment of Recovery Plans Under the Markets in Financial Instruments Act

Article 1. Review and Compliance Evaluation

1. **The Swiss Financial Commission (SFC) shall review the recovery plan and assess its compliance with the requirements outlined in Article 6, considering whether the following likelihoods are justified:**
 - **Implementation of proposed actions and measures within the plan to retain or restore the viability and financial position of the institution or group, including those actions already taken or planned by the institution.**

- **The plan's capability for quick and effective implementation during financial stress, minimizing significant adverse impacts on the financial system, including scenarios where recovery plans from other institutions might concurrently be activated.**

Article 2. Appropriateness Assessment

- 1. The competent authority under the Swiss Credit Institutions Act or the Markets in Financial Instruments Act shall assess the appropriateness of the recovery plans by evaluating the alignment of the institution's capital and funding structures with its organizational complexity and risk profile.**
- 2. The recovery plan must be submitted to the unit specified under Article 2(2) or Article 3(2).**

Article 3. Recommendations for Amendments

- 1. If the unit under Article 2(2) or Article 3(2) finds that the recovery plan includes measures that could hinder the institution's resolvability, it may submit recommendations to amend the plan to the competent authority under the Swiss Credit Institutions Act or the Markets in Financial Instruments Act.**

Article 4. Notification and Plan Revision

- 1. The competent authority shall notify the institution or EU parent undertaking of its evaluation. If significant deficiencies or obstacles are identified, the institution must submit a revised plan within two months, extendable by one month with the authority's approval.**
- 2. The institution or EU parent undertaking may express an opinion on the evaluation within 14 days of receiving the notification.**
- 3. The competent authority may require changes to the revised plan if it finds that deficiencies or obstacles remain unaddressed.**

Article 5. Consequences of Non-Compliance

- 1. If the institution or EU parent undertaking fails to submit a revised plan or the competent authority deems the revised plan inadequate, the authority may mandate changes in the institution's activities to rectify the deficiencies or obstacles.**
- 2. If the institution does not comply, the competent authority may apply measures in line with Article 103(2) of the Swiss Credit Institutions Act and Article 276(1) and (2) of the Markets in Financial Instruments Act.**

Article 6. Group Recovery Plans

1. An EU parent undertaking under consolidated supervision by the Swiss National Bank (SNB) or the SFC must submit a group recovery plan that outlines measures to stabilize the group or any of its institutions during stress.
2. The plan must be shared with relevant competent authorities of subsidiaries and significant branches and must aim for coordination at all levels within the group.
3. It must address intra-group financial support measures as per Chapter Four and options for action under various scenarios identified in Article 6(8).

Article 7. Review by the Consolidating Supervisor

1. The SNB or the SFC, acting as a consolidating supervisor, will review the group recovery plan and assess its compliance with Article 7 and Article 8.
2. The assessment shall consider the potential impact on financial stability in all relevant Member States.

Article 8. Multilateral and Individual Decisions

1. If a joint decision on the recovery plan is not reached within four months, the consolidating supervisor shall make an individual decision, taking into account the input from competent authorities.
2. If an issue is referred to the European Banking Authority (EBA), the decision-making process shall be postponed until the EBA's decision is provided.

Article 9. Indicators for Recovery Plans

1. Recovery plans shall include both qualitative and quantitative indicators to identify when actions should be taken.
2. The institution must monitor these indicators regularly and inform the competent authority of any relevant decisions made.

Article 10. Resolution Planning

1. The SFC shall prepare a resolution plan for institutions not part of a group under consolidated supervision, ensuring that significant obstacles to resolvability are identified and addressed.
2. Plans must include an analysis of scenarios and potential applications of central bank facilities.

Article 11. Cooperation and Updates

1. Institutions must assist the SFC by providing information relevant for updating resolution plans. The SFC shall review plans at least annually or after significant changes in the institution's structure.

Preparation of the Plan Under Article 14

1. Requirements by the Relevant Resolution Authority:

- **The Swiss Financial Commission (SFC), acting as the relevant resolution authority, may require institutions to:**
 - 1. Cooperate in the process of drafting resolution plans.**
 - 2. Provide the information referred to in Appendix No. 3 and any additional data necessary for the preparation and implementation of resolution plans.**

2. Information Sharing:

- **If the information required under paragraph 1, item 2, is available at the Banking Supervision Department of the Swiss National Bank (SNB) or the Investment Activity Supervision Department of the SFC, it shall be provided to the designated unit under Article 2(2) or Article 3(2) respectively.**

3. Communication of Information:

- **Subject to compliance with Article 116, the resolution authority under Article 2(1) shall submit all necessary information obtained under paragraph 1 to the Swiss Bankers Association (SBA), ensuring adherence to the resolution plan stipulated in Article 14.**

Preparation of Group Resolution Plans (Article 17)

1. Adoption of Group Resolution Plan:

- **The Swiss National Bank or the SFC, as appropriate, shall adopt a group resolution plan when the EU parent undertaking is an institution or an entity as defined under Article 1(1), items 4 or 5.**

2. Joint Preparation:

- **The group resolution plan shall be prepared by the relevant resolution authority in cooperation with resolution authorities of the subsidiaries and after consultation with the resolution authorities of significant branches, where relevant.**

3. Content of Group Resolution Plan:

- **The plan must include measures for the resolution of:**
 - 1. The EU parent undertaking.**
 - 2. Subsidiaries established within the European Union.**
 - 3. Companies under Article 1(1), items 4 and 5.**
 - 4. Subsidiaries established in third countries.**
- **It should define the resolution entities and resolution groups, based on information submitted pursuant to Article 16.**

4. Detailed Information Included:

- **The plan shall include:**
 1. **Resolution actions under scenarios set out in Article 14(5) and their implications on related group companies.**
 2. **Actions for each resolution group, if the group comprises multiple resolution groups.**
 3. **Analysis of coordinated application of resolution tools within the EU, identifying potential barriers.**
 4. **Measures for cooperation with relevant third-country authorities.**
 5. **Legal and economic separation measures required for effective resolution.**
 6. **Actions by the relevant resolution authorities for each group entity.**
 7. **Analysis of potential funding options and shared responsibility principles.**

5. Principles for Funding:

- **The principles must be equitable and balanced, considering the potential impact on the financial stability of affected Member States, in line with Article 143(3).**

6. Final Assessment:

- **The plan should include an up-to-date assessment of resolvability per Article 27 and ensure no disproportionate impact on any Member State.**

Procedure for Group Resolution Plan Preparation (Article 18)

1. Submission by EU Parent Undertaking:

- **The EU parent company must submit the information under Article 16(1), item 2, to the SNB or SFC in their role as group-level resolution authority.**

2. Information Coverage:

- **The information must cover activities of the parent company and, if necessary, each group entity.**

3. Distribution of Information:

- **The resolution authority must share received information with:**
 1. **The European Banking Authority (EBA).**
 2. **Resolution authorities of subsidiaries.**
 3. **Resolution authorities in jurisdictions of significant branches.**
 4. **Competent authorities of group entities and significant branches.**

4. Information Relating to Third Countries:

- For subsidiaries in third countries, sharing information with the EBA requires consent from the third-country supervisory or resolution authority.

Procedure for Group-Level Resolution Plan Adoption (Article 19)

1. Preparation and Update:

- The SNB or SFC, as the group-level resolution authority, shall collaborate with subsidiary authorities and consult with relevant Member State authorities to prepare and update group resolution plans.

2. Inclusion of Third-Country Authorities:

- Third-country resolution authorities may be involved, subject to confidentiality under Article 133.

3. Annual Review:

- The plan must be reviewed and updated annually or when significant changes occur in the group's legal, management, or financial status.

4. Joint Decision:

- Adoption shall be in the form of a joint decision with subsidiary resolution authorities.

5. Individual Decision-Making:

- If no joint decision is reached within four months, the group-level authority shall make an individual decision, considering input from other authorities.

6. EBA Involvement:

- If requested, the EBA may assist in joint decision-making under Regulation (EU) No. 1093/2010.