GUIDELINE

"ON THE OPERATIONAL CONTINUITY IN RESOLUTION"[1]

[1] For questions and comments in regards to this Guideline, please contact: resolution@bankofalbania.org

Bank of Albania

2023

TABLE OF CONTENTS

1. PURPOSE AND OBJECTIVES

In accordance with Article 2 of Regulation No. 31/2018 “On Resolution Plans”, as amended (heretofore referred to as Regulation No. 31/2018), operational continuity in resolution (OCIR) refers to the bank's ability to effectively implement, from an operational point of view, the resolution strategy, and any action necessary to restructure the bank following the resolution.

To achieve this, the bank draws up the following operational procedures:

a) identify all relevant critical services, as well as underlying relevant operational assets and staff/role, and map them to the legal entities, providers and recipients, core business lines and critical functions (identification and mapping interconnectedness for operational continuity)[2];
b) ensures that contractual arrangements with providers (both third-party and intra-group legal entity) are clearly and comprehensively documented, kept up to date, and are mapped to critical services;
c) assesses the operational continuity risks in resolution, such as the interruption of services, loss of access to operational assets and unavailability/vacancy of critical staff[3];
d) mitigates the identified operational continuity risks by putting in place appropriate operational arrangements against resolution (e.g. resolution-resilient service contracts);
e) has in place clear cost and pricing structures for critical services which are predictable, transparent and set on an arm’s length basis;
f) ensures the financial resilience of service providers;
g) places management information system (MIS) capabilities that provide timely access to the up-to-date information needed to identify potential operational continuity risks to resolution, and to carry out separability and restructuring (e.g. repository of data and contracts governing provision of the relevant services)[4];
h) ensures adequate governance arrangements for operational continuity in resolution (OCIR) purposes (resolution planning and execution)[5].

This guidance is provided to assist banks in achieving resolvability in line with the objectives set out in the Regulation No. 31/2018, with the aim of achieving the bank’s preparedness for a potential resolution.

[2] Principle D.1 in Annex 2 of Regulation No. 31/2018 “On Resolution Plans”, as amended.

[3] Principle D.2 in Annex 2 of Regulation No. 31/2018 “On Resolution Plans”, as amended.

[4] Principle E in Annex 2 of Regulation No. 31/2018 “On Resolution Plans”, as amended.

[5] Principle A in Annex 2 of Regulation No. 31/2018 “On Resolution Plans”, as amended.

2. SCOPE OF APPLICATION AND PHASE-IN

In line with the objective laid down in the Regulation No. 31/2018, this operational guidance is aimed at banks within the Resolution Authority (RA) remit for which the strategy is resolution. The operational guidance is general in nature, and its application to each bank may be adapted to individual specificities. The guidance is not exhaustive and may be subject to further RA and banks communications related to the resolvability requirements for banks. In this context, the RA may also request information and analysis on specific topics in addition to this guidance, when relevant to resolution planning and for the purpose of improving the resolvability of the bank throughout the respective resolution planning cycle.

3. OPERATIONAL GUIDANCE

3.1. INTRODUCTION

1. Operational continuity in resolution refers to the ability of the bank to effectively implement the resolution strategy from an operational point of view and, consequently, to stabilise and restructure the bank. To this end, appropriate arrangements need to be in place by banks to ensure the continued provision of services needed for:
   a) Maintaining the bank’s critical functions in the economy and financial markets (‘critical services’); and
   b) supporting the bank’s core business lines that are necessary for the effective implementation of the resolution strategy and any consequent restructuring (‘essential services’).

Together these services are referred to as ‘relevant services’.

2. The bank organises the provision of services for the performance of its activities, in several ways, which may in practice be combined:
   a) it can outsource the provision of services to a third-party;
   b) it can allocate the provision of services to another entity within its group (provision of services by another group legal entity);
   c) it can operate a business unit within the bank itself that provides services to one or more of its business units.

3. Whatever the service delivery model adopted by a bank, it needs to ensure the continuity of the relevant critical services during resolution and to facilitate separability and post-resolution restructuring.

4. Appropriate operational continuity arrangements may differ depending on the service delivery model employed by the bank. Moreover, the identified preferred and variant resolution strategy and other factors, such as the legal framework applicable to the contracts governing relevant critical services may also play a role and may impact the prioritisation for implementing the arrangements described in the sections below.

3.2. SERVICE IDENTIFICATION AND MAPPING

Regulation No. 31/2018 "On Resolution Plans", as amended

Annex 2, Principle D.1 - Identification and mapping of interconnectedness for operational continuity

The bank identifies all relevant critical services, as well as operational assets and staff, necessary for the continuity of critical functions and the core business lines needed for the effective implementation of the resolution strategy and any consequent restructuring, and map them to legal entities, critical functions, core business lines and related contractual arrangements.

5. The identification and mapping of the interconnectedness of the relevant services is the foundation of a bank's plan for ensuring the continuity of these services in resolution, and for facilitating separability and post-resolution restructuring. Identification and mapping enables the bank to conduct an assessment of the risks to operational continuity in resolution, which will be the basis for identifying and implementing appropriate mitigating actions to address them, including preparedness measures.

6. In this regard, banks are expected to:
   a) identify the relevant critical services (provided by intra-group providers or by third parties), operational assets (owned or licensed/leased) and staff/roles;
   b) undertake the mapping of all relevant critical services to: (i) critical functions (CFs); (ii) core business lines (CBLs) needed for the effective implementation of the resolution strategy and consequent restructuring; (iii) legal entities (providing and receiving the services); and (iv) relevant operational assets and staff/roles and their location (within the group and physically);
   c) undertake the mapping of relevant critical services to the contracts/arrangements governing them;
   d) gather the above information in a catalogue of relevant services relationships across the group (service catalogue, see section 5.1 below).

3.2.1 SERVICE IDENTIFICATION

7. In order to identify the relevant critical services, banks are expected to:

   a) develop their own tiered service taxonomy, e.g. categorising the services and subsets of these services in hierarchical levels[6];

[6] For example, a service taxonomy which categorises the services at three hierarchical levels, where at the top level there is the service group (L1: Finance services) within which the services are represented at level two (L2: treasury, financial analysis, tax, investor relations, etc.) and sub-services at level three (L3 - within treasury: liquidity management, asset and liability management, collateral management, etc.).

b) perform a criticality assessment of the dependency of critical functions on services (including the ones provided by third parties);
c) assess the dependency of core business lines (the continuity of which is deemed necessary for the effective implementation of the resolution strategy and any consequent restructuring) on services according to the same criteria.

8. The service taxonomy provides the basis for a comprehensive functional representation of the bank's operational structure, i.e. how the bank is structured to provide the necessary services to operate its core business lines and perform critical functions. In turn, it provides a baseline for the mapping of interconnectedness for operational continuity. The service taxonomy is expected to be adequately granular, to enable the identification of relevant services in a targeted way. This means that it should balance simplicity (i.e. avoid undue stratification of the services) with the need to provide preliminary certainty and transparency about the services that are actually and genuinely necessary for the continuity of the bank's critical functions and core business lines.

9. As a reference point regarding the service taxonomy, banks can use the list of services set out in the current reporting template on services as well as in the Guideline "On the identification of critical functions and core business lines from banking sector"[7]. However, the service taxonomy for the purpose of operational continuity is expected to be more granular to ensure that relevant services can be identified in a more precise and targeted way.

10. The criticality assessment of dependencies of critical functions on services is carried out according to the following criteria[8]:
   a) *material impact on the* critical functions *if the service is interrupted:* a service is considered as critical if its disruption or failure can present a serious impediment to or completely prevent the performance of a critical functions;
   b) *substitutability of the service:* A service is considered critical for the support of a critical functions if its interruption would have a material impact on the critical functions and it is not substitutable. If the service can be substituted with one of comparable scope, cost and quality within a reasonable time frame, it is not considered as critical.

11. With regard to the substitutability of the service, the 'reasonable time frame' may differ from one service to another, as well as between critical functions. In general terms, the reasonable time frame should be understood as the period of time following a disruption of the service within which the service must be credibly replaced (e.g. by moving it to an alternative provider or insourcing it) in order to ensure the continuity of the critical functions throughout resolution.

12. When assessing the comparability of a service, the resolution context should be taken into account: a substitute service provider or service may not be the optimal choice in a

[7] Published on the official website the Bank of Albania

[8] The Guideline "On the identification of critical functions and core business lines in the banking system 2018" sets out the following definition of a critical service: A service is considered critical where its disruption can present a serious impediment to, or prevents the performance of, one or more critical functions. A service is not considered critical where it can be easily provided by another provider with a comparable extent as regards its scope, quality and cost and within a reasonable timeframe.

'business-as-usual' environment, but may be considered reasonable and as providing a comparable service in a resolution context.

13. If a service is not deemed critical on the grounds of its substitutability, depending on the degree of the material impact of its disruption on one or more critical functions, it may require the preliminary identification of a number of substitute providers of similar services.

14. Similarly to critical services, the bank's determination of essential services depends on the assessment of the dependencies of core business lines (needed for the effective implementation of the resolution strategy and consequent restructuring) on essential services, on the basis of the materiality of impact of the interruption of the service and its substitutability.

15. The determination of which core business lines are necessary for the effective implementation of the resolution strategy and any consequent restructuring depends mainly on the resolution strategy and on the bank's core business lines characteristics and their operational connections (e.g. synergies and/or cross-selling opportunities across business lines).
    a) In the case of a transfer strategy, core business lines where continuity must be preserved should be identified according to the selected transfer perimeter to be transferred in resolution (to third parties or a bridge bank). To this end, the separability analysis informs the choice of transfer perimeter.
    b) In an open bank bail-in strategy, the objective of restoring the bank's future viability implies the need to ensure the continuity of a broader set of core business lines than those already involved in the provision of critical functions. In this context, continuity has to be ensured for the core business lines which, if disrupted, could affect the bank's franchise value and financial viability, lead to a significant loss of customers and reputational damage and/or financial losses for the bank. To this end, it may be appropriate for all core business lines to be continued during and after resolution to achieve the continuity objective and ensure long-term viability. Therefore where this strategy is involved, the starting point is that banks are expected to consider all core business lines.

16. Banks are also expected to assess the dependency of the operational assets and critical staff/ roles in order to determine whether they should be considered relevant or not. As for critical and essential services, this assessment should be based on the same main drivers: (i) the materiality of the impact of the loss of access to assets and critical staff/roles, and (ii) their substitutability or replacement.

3.2.2. MAPPING INTERCONNECTEDNESS FOR OPERATIONAL CONTINUITY

17. Banks are expected to undertake and maintain, at an appropriate level, a comprehensive mapping of:
    a) relevant (internal) critical services with: (i) external service suppliers (third-parties), and (ii) operational assets and (iii) staff/roles which support their provision;
    b) relevant services according to: (i) critical functions, (ii) core business lines, and (iii) legal entities (providing and receiving the services);

c) relevant critical services and relevant operational assets to the related contractual arrangements.

18. This mapping should also allow the bank to identify the services provided from variuos providers (e.g. an intra-group service provider sub-contracting with a third-party).

3.3. ASSESSMENT OF OPERATIONAL CONTINUITY RISK

Regulation No. 31/2018 "On Resolution Plans", as amended

Annex 2, Principle D.2 - Assessment of operational continuity risk

Banks comprehensively assess risks to operational continuity in resolution, such as the interruption of relevant services, loss of access to relevant operational assets and vacancy/unavailability of relevant roles/staff. Banks perform a comprehensive analysis of risk of how their operational arrangements would support the execution of the resolution strategy, and facilitate post-resolution restructuring

19. The scope of the assessment of risks to operational continuity by banks covers all relevant critical services, operational critical assets and staff/roles. For this assessment banks are expected to use the interconnectedness mapping referred to in Section 3.2.

20. The risk analysis needs to take into account elements such as:
    a) interruption of relevant critical services from third parties and other group legal entities;
    b) loss of access to bank's relevant operational assets; and
    c) the potential vacation of relevant roles in resolution, including where relevant staff are employed by a group legal entity that could be wound down or divested in resolution.

21. Important information with respect to relevant operational assets includes the following:
    a) whether they are owned or licensed/leased by the entity using them to deliver a relevant critical service;
    b) if they are licensed, where the licence is registered;
    c) if they are leased, where the property is located;
    d) if owned, where they are located within the group and geographically.

22. Important information with respect to operational staff/roles includes:
    a) which legal entity is the employer of the critical staff;
    b) where the relevant staff/roles are located within the group and geographically.

23. The above information on operational assets and critical staff/roles is retrieved from the database of operational assets and critical staff/roles (see section 5.3 below).

24. Banks employ a comprehensive risk identification framework, with the aim of identifying all types of risks to operational continuity to which they are exposed.

25. To this end, in conducting the risk assessment, banks are expected to:

a) identify a comprehensive list of risk drivers[9]. Some common risk drivers include: divestment of a group entity or separation of a business upon resolution and post-resolution restructuring, unilateral termination of relevant contracts, etc. The definition of the risk drivers should take into account elements such as: the group service delivery model; governing law and jurisdiction of relevant contracts arrangements; relevant critical services provided by joint venture entities co-owned and controlled by the bank; the location of relevant operational assets and staff/roles; the legal status (owned, leased, licensed) of relevant operational assets;
b) assess each category or sub-category of relevant dependency[10] identified against the list of risk drivers, to determine which combinations of dependency type and risk driver apply for each critical function and core business line needed for the effective implementation of the resolution strategy and any consequent restructuring.

26. To facilitate this assessment, for each critical function and core business line needed for the effective implementation of the resolution strategy and any consequent restructuring (and preferred resolution strategy or variant strategy), banks could organise their identified relevant dependencies into sub-categories. For example, banks can group their relevant dependencies into:
    a) services provided by an intra-group provider;
    b) services provided by third-party suppliers;
    c) IT assets;
    d) other operational assets;
    e) staff/roles.

27. Dependency categories are not intended to imply higher or lower riskiness, but rather are aimed at allowing banks to better assign applicable risk drivers and, eventually, adopt the most appropriate mitigating actions. An illustrative example of this exercise is shown in the following table. Banks can apply a different structure tailored to their specificities if it is more conducive to achieving the overall aim of this exercise.

Table 1 An illustrative example for the categorisation of risk drivers

	Risk drivers			
Dependency categories	**Separation of part of the business**	**Termination by group**	**Termination by third party**	**E.g...**
Services provided on third-party basis	√	x	√	...
Access to IT systems	√	√	√	...
Access to other operational assets	x	√	√	...
E.g...	...	...	...	...

[9] Risk drivers are potential events that may cause the operational continuity risk to materialise (e.g., the unilateral termination of suppliers to terminate critical services when bank is put in resolution).

[10] The dependencies of critical functions and core business lines on essential services, assets and staff/roles.

3.4. MITIGATING ACTIONS AND PREPAREDNESS MEASURES

Regulation No. 31/2018 "On Resolution Plans", as amended

Annex 2, Principle D.3

Actions to mitigate risks to operational continuity and measures to improve preparedness for resolution.

Banks take the appropriate actions to mitigate the identified risks to operational continuity in resolution and to improve preparedness for resolution and to facilitate post-resolution restructuring.

28. Expectations under this section include the contractual arrangements relating to critical services and operational assets.

3.4.1. ADEQUATE DOCUMENTATION

29. Banks are expected to adequately document all relevant critical services, in such a way as to allow the RA to take resolution action while ensuring operational continuity.
30. For this purpose, the relevant critical services cover: (i) those provided by units/divisions within the same group legal entity (intra-entity), (ii) those provided by another group legal entity, and (iii) those outsourced to third parties.
31. In the case of services provided on an intra-entity basis, banks are expected to document the information which would facilitate the services being easily identified and transitional service agreements being quickly drawn up, if required in the event of a resolution.

32. In this regard, the minimum information expected comprises:
    a) the units which provide and receive the services[11];
    b) a detailed description of the nature of the service;
    c) the estimated cost associated with providing the services, where these services support the divisions/CBLs of a bank that are planned to be transferred to third parties or a bridge institution in resolution or the divestment of which has been identified as a restructuring option;
    d) where relevant, performance targets/service levels.

33. In the case of services provided by another entity in the group or by a third party, the minimum information comprises:
    a) a detailed description of the nature of the service;
    b) clear parameters (quantitative/qualitative performance targets);
    c) details of the provider(s) and recipient(s) of the service (and contracting counterparties if different), including any onward provision to other entities or sub-contracting to third party providers, as well as relevant contact persons for the purposes of contractual notifications;

[11] This information should be retrievable from the service catalogue.

d) pricing structure;
e) associated licences (where relevant);
f) substantive obligations under the contract (e.g. payment/delivery).

34. In this regard, banks are expected to have policy and governance arrangements in place that ensure that all relevant contracts contain the minimum information needed to ensure adequate documentation for operational continuity in resolution purposes (see section 4.5, Governance arrangements, below).

3.4.2. CONTRACTUAL PROVISIONS

35. Resolution-resilient features are properties a relevant service contract is expected to have in order to be considered resolution-resilient. Provided that the substantive obligations under the contract continue to be performed, the resolution-resilient provision guarantees:

a) non-termination, suspension or modification of the service provision on the grounds of resolution/restructuring;
b) the transferability of the service provision to a new recipient by the service recipient or the resolution authority because of resolution/restructuring;
c) the support in transfer or termination because of resolution/restructuring, where the current provider should ensure the transition of the service provision to a new recipient or to a new provider. Where required, including in the case of termination/expiry during resolution/restructuring, the provider should ensure the continuity of the service provision under the same terms and conditions for a reasonable period, 24 months; and
d) the continued service provision to a divested group entity: services can continue to be provided by the current intra-group provider to entities divested from the group as part of resolution/restructuring. Service provision should continue for a reasonable period following the divestment of the group entity, e.g. 24 months.

36. Resolution-resilient provisions are expected for all intra-group or third-party contracts underpinning relevant critical services. Banks are expected to analyse their relevant contracts to identify whether they are resolution-resilient. In this context, a distinction can be made between contracts to which the Albanian and EU law applies and contracts to which third-country law applies.

37. The contracts underpinning critical services are expected to explicitly provide for the resolution-resilient features and to recognise that the contract may be subject to the exercise of Resolution Authority powers to suspend or restrict rights or obligations under the Law No. 133/2016. Banks could indicate that powers to prevent termination, suspension, and modification are subject to the condition of continued payment as contractually agreed.

3.4.3. ALTERNATIVE MITIGATING ACTIONS

38. Where contracts should be amended to ensure resolution-resilience,[12] and banks have not been able to do so, banks are expected to explore alternative mitigating actions. Banks are expected to be able to show that they have attempted to achieve resolution-resilient service contracts, and also to be able to justify why the contracts could not be amended.

39. For contracts with third-party providers not amended to ensure resolution-resilience, banks will be expected to demonstrate that they have informed the respective providers about the possible powers of the Resolution Authority (e.g. making reference to Article 45 of the Law No. 133/2016). Banks could indicate in the contracts that the Resolution Authority powers to prevent termination, suspension and modification are subject to the condition of continued payment as contractually agreed.

40. For these contracts with third-party providers, banks are expected to try to implement alternative measures to mitigate the risk of interruption of relevant critical services. For example, (where feasible) banks could transfer third-party services to an alternative provider who would accept the resolution-resilient terms or, alternatively, transfer them back to a group legal entity.

41. In practice, regardless of the terms of the agreement or the powers of the Resolution Authority, the key issue for a third-party service provider in determining how to react to a service recipient in a financial crisis, is likely to be whether they will continue to be paid.

42. Therefore, if alternative measures cannot be put in place, and depending on the importance[13] of the services governed by these contracts, banks is expected to maintain sufficient liquidity resources to pre-fund the contract costs of the service for a reasonable period of time (minimum six months) once a measure is applied according to the Law No. 133/2016. In this regard, since the aim is to protect the provision of these services during resolution, these liquid resources should be available for this purpose regardless of the failure of the bank or resolution of any group entity. This implies that:
    a) the six months would date from the application of the crisis prevention or crisis management measures, and the payee should be providing critical services at this time;
    b) the liquidity resources are expected to be ‘ring-fenced’ (legally separated) from other group assets, and this may imply holding liquid assets or making deposits in a segregated account with third parties (physically separated);
    c) for this purpose, banks should use assets that can easily be converted into cash at little or no loss of value and within a very short period of time.

43. Where the bank pre-funds contractual costs, it is expected to ask the provider to formally commit to continue providing the service during the period covered by the pre-funding amount, provided that it receives this up-front payment.

---

[12] It may not always be possible for banks to amend relevant service contracts with all critical service providers.

[13] In terms of being material for the continuity of the critical function(s) or core business line(s) needed for the effective implementation of the resolution strategy and any consequent restructuring.

4. MEASURES TO ENSURE THAT RELEVANT ROLES ARE ADEQUATELY STAFFED

44. Banks ensure the continued staffing of critical roles. The measures below are applicable to relevant roles[14] and relevant staff[15] as defined in Objective D - Operational Continuity and as identified in accordance with the criteria below.

45. As for other mitigating measures, banks are expected to have in place governance arrangements to ensure that staff retention measures are swiftly and appropriately implemented in resolution. To this end, in the resolution planning phase banks develop staff retention and succession policies and procedures and ensure that:
    a) they are approved by senior management;
    b) management oversees their execution in resolution;
    c) the relevant stakeholders are informed.

4.1. IDENTIFICATION AND MAPPING OF RELEVANT ROLES

46. Banks are expected to identify in business-as-usual the relevant roles[16], similarly to the identification of relevant critical services (see section 3.2.1), based on the material impact of the role not being performed, and whether staff cannot be substituted with staff of comparable competency within a reasonable timeframe. Substitution could include for e.g. the replacement by an existing staff member, a new hire, or a contractor.

When determining that an individual in a relevant role could not be effectively replaced, banks are expected to consider the following non-exhaustive factors:

a) level of professional experience or certification required for performance of the role, and whether this can be realistically expected outside the current role holder;
b) specific technical, client or market knowledge of the current role holder considered to be of significant value prior to or during resolution and post-resolution restructuring;
c) if internal substitutes are considered, the impact on potentially substituting employee's current role and the potential impact that could result from the unavailability of such staff for processing delays, errors or inadequate client or market knowledge to support operations;
d) if there are obstacles to internal mobility for current staff members;
e) if there is a market scarcity of suitably qualified and experienced candidates;
f) if the onboarding process would take too long for external or internal candidates to substitute within a reasonable timeframe.

[14] Roles (e.g. Head of X Function) whose vacancy in resolution may present an obstacle to the continuity of critical functions and the core business lines needed for the effective implementation of the resolution strategy and any consequent restructuring.

[15] Employees (e.g. Ms XYZ of any group legal entity covering relevant roles.

[16] In line with applicable data protection laws.

47. The assessment whether roles are relevant is expected to be made on a case-by-case basis and in accordance with documented methodology, approach, and criteria that the bank can demonstrate to the RA. This could also involve input from Human Resources and business units. Banks are also expected to indicate whether the deployment of recovery options might have an impact on the relevant staff in resolution.

48. The bank's identification of relevant staff is expected to include at least senior management[17].

Potential synergies

Banks can leverage on the work carried out for the business continuity plans ("BCP") developed for supervisory purposes. It could be used as a basis for the identification of relevant roles. Key roles identified as a result of the BCP business impact analysis may also be considered relevant for operational continuity in resolution. However, the specific scope criteria above will need to be met. The link has to be made between critical roles and critical and essential services.

49. Once all relevant roles have been identified, banks are expected to map them to the underlying and already identified relevant services, see section 3.2.2. The mapping of interconnectedness in relation to relevant roles shall form part of the services catalogue (the identification and mapping exercise should be reviewed as necessary in order to be able to provide the up-to-date information expected from the database of relevant staff (see section 5.3).

4.2. RETENTION PLANNING

50. Banks are expected to take reasonable precautions to ensure availability of, to retain, or to substitute relevant staff. Also, the bank is expected to be prepared to implement its pre-arranged retention planning quickly in a resolution situation and to have the capability to put arrangements in place to retain, substitute, or transfer relevant staff.

51. To do this, banks are expected to consider how they would retain staff in the roles that have been identified as relevant for operational continuity, depending on factors such as the nature of the role, applicable legal constraints, etc. Retention planning for resolution should aim to incentivise relevant staff to remain notwithstanding stress and resolution. This involves consideration of the special circumstances of these scenarios and how to address employee concerns. Where services are provided from within the group, arrangements should be considered for the retention of relevant staff from business lines that may be wound down or disposed of in resolution. Where relevant staff provides simultaneously services to another entity or entities within the group ("dual-hatted staff"), arrangements are expected to address the risks that their roles may not be performed if resolution measures result in loss of access to the staff (due to sale, restructuring or wind-down). This could involve agreements that allow the entities to access functions provided by the staff member on a transitional basis.

[17] Pursuant to Article 4 (I) of the Law No 133/2016, the "Administrator" shall be the members of the management bodies.

52. Staff retention planning in general have high costs due to staff turnover (recruitment, training, supervision). If a bank already has such a general retention plan, it should also explicitly cover resolution and post-resolution restructuring (general references to organisational change for example would not be sufficient). Whether the bank has already an existing or has developed one specifically for resolution planning purposes, the retention plan should cover the following topics:
   a) the legal labour framework;
   b) time horizon of retention agreements (e.g. minimum of 12 months);
   c) compensation and retention costs;
   d) governance and processes to execute the retention plan (execution steps in case of resolution).

53. The retention plan should also contain:
   a) Clear descriptions of staff covered, including cross-references to the database of critical staff (see section 5.3).
   b) Differentiation between staff directly employed by the bank, and those paid on contract basis for specific work e.g. contractors, consultants, joint venture staff or temporary workers, who would not require the same incentive strategy to continue to perform.
   c) The specific actions that may be taken under different levels of stress which should be clearly delineated and defined, covering particularly the run-up to and during resolution.
   d) The triggers for activation and any conditionality (e.g. coordination with wider group retention plan, review required before activation) should be clearly described.
   e) Full details of retention packages including financial incentives (see below section for further details).

4.3. SUCCESSION PLANNING

54. The bank's steering council is expected to adopt and maintain a policy for the assessment of the suitability of its members, which should include, among others, principles on the succession planning of its members and the process for the succession planning.

55. Existing staff succession plans drafted in accordance with the above requirements for supervisory purposes may be considered as a starting point for developing succession plans for the members of the executive council, which are valid in resolution. Resolution succession plans have to be feasible in the context of resolution, where expected attrition may be higher than in business as usual.

56. Such succession plans should determine substitute staff for critical roles who have been trained internally to take over such positions, if necessary. The succession plan is expected to include critical staff at any level and all necessary details for its implementation such as:
   a) based on the bank's assessment of relevant roles, identifying the roles potentially vacant in resolution;
   b) sourcing talent that is currently within the bank to replace those positions or seeking external possibilities for candidates, if necessary;
   c) creating robust performance metrics and a process for evaluating staff against them;
   d) identification and development of potential successors within the bank;

e) assessing training needs and addressing them through implementation of training programmes;
f) conducting regular emergency succession dry-run exercises;
g) preparing for the handover process – identifying relevant steps and timeline;
h) periodic revision of the succession plan and its update, etc.

57. In their succession plans banks could also consider reaching agreements with third parties (for example consulting or advisory firms) to help the bank cover specific critical roles.

58. Banks are expected to prepare on how they could clarify the responsibilities of individual employees in a resolution case should they be different from those applicable in business-as-usual. Key staff identified as relevant (critical/essential) during the resolution planning phase might be assigned with different responsibilities in resolution, while personnel not identified as relevant might be considered as relevant. The bank may also need to fill gaps in necessary roles and responsibilities by selecting non-relevant personnel with complementary skill-sets.

4.4. REGULATORY APPROVALS

59. Banks are expected to take into account relevant labour regulatory framework and regulatory requirements when taking measures regarding critical staff in resolution Changes to employee legal and contractual status such as responsibilities, remuneration, working hours etc., need to be in line with the respective legal framework. For instance, members of the management and supervisory bodies may need the approval of the Supervisory Authority prior to their appointment.

60. Banks are expected to have in place arrangements to ensure compliance with the relevant legal, contractual, and regulatory requirements where applicable. During the resolution planning phase, and particularly for succession planning, banks are expected to identify relevant staff roles and determines:
a) which regulatory approvals would be necessary for any change to relevant staff, responsibilities, and remuneration structures in resolution;
b) any registration requirements and the modalities thereto;
c) any need to consult the staff subject to the measure and any social partners (e.g. trade unions) according to the national framework.

61. Where approval, registration, or consultation with the social partners is required, banks are expected to have in place contingency arrangements to ensure that complete applications are made in a timely manner, also in stressed situations. Preparation includes exploring whether there are feasible measures to ensure readiness in urgent situations where approvals are needed on a fast-track basis or where approvals are needed in third-country jurisdictions.

4.5. ORGANISATIONAL SUPPORT TO RETAIN STAFF

62. Banks implements appropriate and effective governance arrangements to ensure additional support to relevant staff during resolution. Such arrangements could include policies and processes containing:

a) **Credible leadership.** Management could, where appropriate, set clear expectations regarding corporate performance goals and employee performance metrics and roles, in light of any changes of responsibilities required by the resolution case.
b) **Clear communication.** In line with the communication plan[18], the banks should ensure effective organisational communication practices that allow key personnel to have access to sufficient information about organisational changes.
c) **Learning and professional development.** During business-as-usual banks could provide relevant staff with information or training regarding resolution. This will reinforce the message that the bank values its employees and at the same time enables quicker actions to be taken in resolution as the key personnel would be more knowledgeable. It should also provide staff with more familiarity and reassurance in relation to the resolution process, which would mitigate against staff attrition in resolution.
d) **Management support.** In business-as-usual, additional engagement and support such as monitoring workloads may also help retention of relevant staff in resolution.

5. ADEQUATE MANAGEMENT INFORMATION SYSTEMS (MIS)

Regulation No. 31/2018 "On Resolution Plans", as amended

Annex 2, Principle F1 - Adequate management information systems (MIS)/databases and annual reporting.

To this end banks are expected to have a comprehensive, searchable and updated (with an adequate frequency) MIS/databases providing rapid access to the information needed to support resolution and post-resolution restructuring:

a. the service catalogue referenced in Objective E; and
b. a repository of relevant service contracts in a searchable format.

63. Use of the relevant MIS/databases may be required in the following circumstances:
a) during resolution planning to ensure they are fit for purpose;
b) during dry-runs (exercises simulating a resolution case and testing access to the information needed in an emergency situation);
c) before (preparing for resolution, e.g. by conducting an on-site inspection), during (deciding on ad-hoc measures to ensure continuity) and after resolution (stabilisation and restructuring phase).

64. Banks are expected to have MIS capability to produce timely, customised reporting of up-to-date data which enables rapid access to the information needed to identify potential risks to service continuity resulting from entry into resolution, to facilitate separability and to develop the bank's business reorganisation plan.

65. Banks are expected to have centralised processes and governance arrangements in place for ongoing updates and maintenance of the databases.

[18] Objective G, Annex 2 of Regulation No. 31/2018, as amended.

5.1. SERVICE CATALOGUE

66. The service catalogue is an MIS instrument in which all the granular service information is gathered and can be accessed in a reliable way, including in a stress situation, for resolution planning and implementation, including separability and post resolution restructuring.

67. Therefore, the service catalogue should provide granular information in relation to:
    a) the bank's service taxonomy as described in section 3.2.1, including the description of the nature of the services;
    b) relevant and non-relevant services, as a result of the analysis of (i) the materiality of the impact of interruption to the services, and (ii) their substitutability;
    c) the mapping of interconnectedness described in section 3.2.2;
    d) the costs associated with the provision of the services;
    e) the linkage to the contractual arrangements governing the relevant services and supporting resources (e.g. operational assets).

68. The service catalogue is expected to be searchable (i.e. the information should be easily retrieved according to criteria relevant for resolution purposes) and able to produce detailed reports on the different dimensions[19].

69. Since the service catalogue normally aggregates data from different secure source systems, it is important for it to receive updates from these data sources regularly.

5.2. REPOSITORY OF RELEVANT CONTRACTS

70. Banks maintain an updated repository of all the contractual arrangements governing the relevant services, with both internal and external service providers.

71. The repository is expected to be both searchable and exhaustive (i.e. it should include information on all contracts that may be relevant from a resolution perspective).

72. For resolution planning and especially for resolution execution purposes, timely access to quality data regarding contracts needs to be ensured. At a minimum the essential data fields reported in Annex I should be available in the repository. The list of the essential data fields is not exhaustive and banks may also include additional data fields (see Annex I).

73. The repository should take the form of a centralised database. In case this is not feasible, relevant data sources are expected to be linked to allow for accurate mapping and customised reporting of data, to ensure that the objectives and purposes of the OCIR expectations are fulfilled.

74. Irrespective of the tool used for this purpose, it is important that the repository receives regular updates from the related sources with sufficient frequency.

[19] E.g. the dependency of a critical function on critical services as well as operational assets and staff/roles which underpin the provision of these services; the cost associated to a critical function or business line, etc.

5.3. INVENTORY OF RELEVANT OPERATIONAL ASSETS AND DATABASE OF RELEVANT STAFF/ROLES

75. Banks are expected to have a searchable and up-to-date inventory of relevant operational assets, as well as a database of their relevant staff/roles in place (see Annex II with respect to the minimum fields).

76. Irrespective of the tool used for this purpose, it is important that this database receives updates from the related sources with sufficient frequency, and that it is exhaustive and has a search functionality which ensures that the objectives and purposes of the operational continuity in resolution expectations are fulfilled.

Regulation No. 31/2018 "On Resolution Plans", as amended

Annex 2, Principle A2 - Adequate governance

The governance processes and arrangements ensure that resolution planning is integrated into the overall management framework of banks, and support the preparation and implementation of the resolution strategy.

(…) Banks are expected to ensure that intra-group providers of relevant services have their own governance structure and clearly defined reporting lines, do not rely excessively on senior staff employed by other group entities, have contingency arrangements to ensure that relevant services continue to be provided in resolution and that the provision of relevant services within the group is structured to avoid preferential treatment upon the failure or resolution of any group entity.

77. Banks are expected to have adequate policy and governance arrangements in place to ensure that operational arrangements are implemented in such a way as to meet operational continuity expectations.

78. Banks should ensure that intra-group providers of relevant services:
    a) have sufficient governance oversight and contingency arrangements;
    b) have a management body with sufficient seniority and operational independence;
    c) do not depend on senior staff performing significant duties for other group entities;
    d) where multiple roles are held, those relating to relevant services are prioritised;
    e) do not overly rely on staff employed by other members of the group;
    f) ensure that the staff responsible for the running of relevant services will continue to be remunerated in resolution.

79. Banks should also ensure that during resolution:
    a) organisational structures and contracts/service agreements do not require an intra-group relevant service provider to prioritise their resources to support critical functions and core business lines performed by certain group entities over others;
    b) contracts/service agreements do not contain clauses which would enable an intra- group provider of relevant services to support critical functions and core business lines performed by one group entity to the disadvantage of another;

c) in the event of a deterioration in the financial circumstances of another group entity performing critical functions and core business lines, the intra-group relevant service provider continues to treat that entity in accordance with the existing agreement.

80. Banks should put in place appropriate and effective governance arrangements to ensure:

a) during the preparation for resolution, **their operational readiness.** This implies in particular the ability to provide, promptly:
   i. information needed to identify potential risks to service continuity resulting from entry into resolution;
   ii. information on the operational arrangements needed: (i) to ensure service continuity (e.g. staff required, pre-positioned liquid resources to be made available, etc.), (ii) to facilitate separability and (iii) to implement a plan for communications with service providers and other key stakeholders;

b) during the resolution weekend and during the implementation of the resolution scheme**, the continuity of core business lines and critical functions as planned**, including through appropriate communications with service providers and other key stakeholders, and accessing pre-positioned liquid resources. Rapid access to the information necessary to develop the bank's business reorganisation plan should also be ensured.

ANNEX 1: LIST OF THE FIELDS TO BE INCLUDED IN THE REPOSITORY OF CONTRACTS

1. Essential fields

a) Identifier
b) Start date of the contract
c) End date of the contract
d) Next renewal date
e) Parties to the contracts and contact details (name, registered address, country of registration, LEI or corporate registration number, parent company where applicable)
f) Subcontractor (Y/N)
g) Part of the group (whether the service is provided from inside or outside of the group - Y/N)
h) Part of the resolution group (whether the service is provided from inside or outside of the resolution group - Y/N)
i) Group department responsible for dealing with the main operations covered by the contract (name and unique identifier)
j) Brief description of the service
k) Pricing structure is predictable, transparent and set on an arm's length basis (Y/N)
l) (Estimated) total annual budget cost for the service
m) Degree of criticality (high, medium, to be assessed)
n) Critical function for which the service is relevant
o) Core business lines for which the service is relevant
p) Name of alternative service provider
q) Jurisdiction/s of the contract or dispute process, including agreed adjudication procedures, mediation, and arbitration or internal dispute resolution

r) Governing law
s) Country(ies) in which the services are provided (if different from country of registration of the provider)
t) Resolution-resilient contract (according to the resolution resilient features) (Y/N/Partially)
u) Penalties for suspension, breach of contract or termination, delay with payments
v) Trigger/s for early termination
w) Termination notice period for the provider
x) Duration of post-termination assistance (months)

Additional fields

a) Relationships between contracts (e.g. cross-referencing between SLAs and master contracts)
b) Conditions of payment (e.g. pre-payment/post-payment)
c) Existence of automatic renewal clauses (Y/N)
d) Quantitative performance targets for the provider
e) Qualitative performance targets
f) Party(ies) allowed to terminate
g) Estimated time for substitutability

ANNEX 2 INVENTORY OF RELEVANT OPERATIONAL ASSETS AND DATABASE OF RELEVANT STAFF

1. List of minimum information to be included in the inventory of relevant operational assets:

a) Identifier
b) Type of asset
c) The type of title giving access to the asset (i.e. ownership, lease or other type of right)
d) The owner of the asset (distinguishing between group legal entity or third party) and parties to the contract(s) giving rise to access to the asset.
e) Relevant services, critical functions and core business lines where provision and performance are underpinned by the asset
f) Group legal entities requiring access to the asset to enable relevant service performance
g) Physical location of the relevant operational asset
h) Arrangements in place to ensure continued access to the asset in resolution

2. List of minimum information to be included in the database of relevant staff

a) Identifier
b) The function/role of the relevant staff
c) The legal entity of the official contractual employer
d) The legal entity or entities to which the staff provides its service
e) Relevant services, critical functions and core business lines where provision and performance are underpinned by the staff
f) Identifier of potential replacement/substitute for the post/role
g) Relevant references to retention/succession plans