

3.1 Minimum requirements for the formulation and implementation of recovery plans

Resolution no. 4,502, issued by the National Monetary Council (CMN) on June 30th, 2016, incorporates the Financial Stability Board's Key Attributes of Effective Resolution Regimes for Financial Institutions (Key Attributes⁵⁸, or "KAs") into the Brazilian regulatory framework. This measure is an important step in aligning our regulatory framework to the international best practices.

The existence of a recovery plan is essential for an effective resolution framework. By designing the recovery plan, the management of the financial institution develops a deeper understanding of its business' vulnerabilities, which allows for timely corrective actions and for a better grasp of the risks taken. Those effects are value enhancing, as they foster confidence in the soundness of the financial institution.

Aiming to reestablish adequate levels of capital and liquidity and to secure the continuity of financial institutions deemed systemically important, the regulation issued establishes the minimum requirements for the formulation and implementation of recovery plans by universal banks, commercial banks, investment banks and savings banks whose Exposure/GDP, defined by Circular no. 3,768, of October 29th, 2015, is above 10% (ten percent) on December 31th of the penultimate year.

The requirements include the mapping of critical functions for the bank and the core services the bank

58/ FSB's Key Attributes of Effective Resolution Regimes for Financial Institutions – Published in October 2011, updated in October 2014. <http://www.fsb.org/wp-content/uploads/r_141015.pdf>.

provides to the financial system, the craft of stress scenarios and suitable indicators, the establishment of clear governance arrangements for the implementation of the recovery plan, the assessment of potential barriers to effective recovery and the development of a proper communication strategy with the institution's main stakeholders. According to the Resolution, banks should formulate recovery plans every year and subject their plans to an internal review at a three-year interval. Senior management should be involved in the entire process of the formulation of the recovery plan and take charge of its implementation whenever deemed necessary.

Financial institutions have already been exposed to recovery planning activities when they devise capital and liquidity contingency plans and when they take part in stress tests related to their capital management and to the assessment of various risks. The objective of the issuance of the Resolution is to reinforce the recovery planning of systemically important banks, thus, contributing to the soundness of the financial system.

According to the schedule of Resolution no. 4,502, of 2016, the institutions will have until December of 2017 to adjust themselves to the new rules, in a gradual transition. The transition includes step-by-step deliveries that will allow the BCB to closely accompany the implementation of the recovery plans.

3.2 Special Regime of Exchange and Tax Regularization – Foreign Exchange provisions and regularization of CBE declaration

Law 13,254, of January 13, 2016, established the Special Regime of Foreign Exchange and Tax Regularization (RERCT), through which individuals and companies can voluntarily declare their assets, property or rights of legitimate origin that have been remitted, repatriated or kept abroad and that have not yet been correctly reported. The Law establishes that the regulation of RERCT is in charge of the Federal Revenue of Brazil (RFB), leaving the BCB to address specific topics of its competence.

In this sense, the BCB issued Circular 3,787, of March 17, 2016, to regulate operating procedures regarding topics of its competence, related to RERCT. The Circular addressed the form and procedures for the regularization

of the declaration of Brazilian Capital Abroad (CBE), the dollar rate and the par values of other currencies against the dollar, to be used for the conversion to foreign currency. In addition, the Circular has created specific code for classification of foreign exchange transactions related to repatriated funds.

3.3 Electronic opening and closing of deposit accounts

In recent years, the development of new technologies, improvements in the transmission of data and the growing use of portable electronic devices have changed the way financial institutions deliver their services.

In this context, CMN issued Resolution no. 4,480, on April 25th, 2016, which allows customers to open and close deposit accounts using electronic channels, as long as financial institutions have in place sound controls and adequate safeguards. This measure applies to check accounts as well as time and savings deposit accounts.

Currently available technologies allow financial institutions to put in place processes and internal controls which make opening an account both an easy and safe process. Safety mechanisms can be deployed to verify the identity of clients, such as electronic device validation, geolocation of clients, transmission of digitized documents and pictures, image recording and detection of the physical presence of the client, digital signature etc., all of these data been available for monitoring and auditing activities.

This regulation is part of BCB's efforts to stimulate innovation in the banking sector, especially as it comes to increasing the supply of financial services through electronic channels.

3.4 Acquisition of securities issued by subsidiaries

CMN approved an amendment to Resolution no. 1,775, of December 6th, 1990, in order to allow financial institutions to buy subordinate mortgage backed securities (“certificados de recebíveis imobiliários” – CRI) and rural credit backed securities (“certificados de recebíveis do agronegócio” – CRA), or to buy CRIs and CRAs as a consequence of a firm offer by the financial institution in the context of an issuance of such securities

by a securitization company controlled by the financial institution, as long as the underlying loans are under a fiduciary regime.

The maintenance of safety in the financial system and the increase in economic predictability is what allows the development of financial instruments such as asset backed securities.

The main reasons for this amendment are:

I – to allow the acquisition of asset backed securities issued by companies of the same group, but only if the underlying assets are under fiduciary regime, taking into account that, in this case, there is no exposure to the issuer credit risk and no financing within the same group;

II – to provide a less-costly funding alternative for financial institutions, particularly in segments where funding is highly dependent on directed credit schemes such as housing and agricultural finance. In addition, this allows financial institutions to better manage temporary funding shortages;

III – to induce good practices for loan origination. By retaining subordinated tranches of a securitized bond, the financial institutions have an added incentive to ensure a good performance of the underlying loans and thus, a good performance of the asset backed securities.

Therefore, Resolution no. 4,478, of 2016, is consistent with BCB's efforts to improve funding conditions and funding diversity for financial institutions with due regard for the stability of the National Financial System.