



NFU comments to the EBA Discussion Paper on a template for recovery plans

Summary of main points

- Finance employees must be seen as stakeholders in relation to recovery arrangements, which must take the employee dimension into account
- Finance employees can make a crucial contribution to recovery arrangements and provide unfiltered information on daily practices that can aid early warning measures
- Diversity on company boards through employee representation is a key issue for sound and long-term oriented corporate governance, and employees should be involved in recovery planning
- Information on recovery plans must be available for use and for preventive action for certain trusted people including trade union or employee representatives under responsibility of confidentiality, as these people must be able to carry out their functions in a responsible way

Introduction

NFU welcomes the EBA's approach to discuss the details of a template for recovery plans. European-wide systems for bank recovery would not only enhance the resilience and sustainability of the sector. It would also contribute to ensuring that all financial markets, products and market participants are regulated in a fair and thorough fashion, thereby establishing a level playing field and sound competition.

It is also most welcome that the discussion paper gives attention to the employee and trade union dimension in relation to information. Employees have a right to be well-informed, but in addition to this, however, there are several other areas where the employee dimension should be taken into account.

It is a well-known fact that employees can contribute to better corporate governance through representation on company boards as well as enhanced supervision if the right arrangements are in place. NFU and other stakeholders have repeatedly maintained the value of employee board-level representation and including employees as a factor in supervisory arrangements.

Employees have knowledge about a financial company's daily practices that cannot be acquired anywhere else.

Q. 5: Do you believe the draft recovery template to be sufficiently comprehensive and cover all the aspects relevant to the purpose of the recovery plan? If not, please specify what is missing.

As regards section **B.b**, Recovery early warnings and triggers, NFU has repeatedly maintained that finance employees are crucial as a source of information regarding the day-to-day practices in financial undertakings. Finance employees are in some respects in a unique position in relation to ensuring that the competent authorities are made aware of adverse developments that can constitute a serious threat to financial stability or to market confidence. Employees can give supervisors direct information on day-to-day practices that is not filtered through management or a board of directors.

It is thereby relevant to analyse the potential of internal whistle-blowing systems in relation to early warnings, not least since both the upcoming CRD IV and MiFID dossiers contain rules on the establishment of just such systems.

In section **B.d**, Recovery measures, NFU would like to see the employees as a factor in the analysis. The bottom line is that it must be made absolutely clear what a recovery will entail for the employees of the entity or group concerned, and that the framework must provide for a continuously sound and sustainable employment situation. This means that, regardless of the design of the framework and the powers invested in the administrator, there must be no worsening of employee's rights in any aspect due to a bank being put under recovery.

In section **B. f**, Communication plan, the plan should address in detail national and European and/or international information and consultancy procedures for employee representatives. In practice, European employee consultancy procedures are often neglected and not sufficiently taken into account by global firms. In general terms, information and consultation procedures with employee representatives should, if used correctly, be mutually beneficial: employee representatives will discover the ongoing restructuring and the recovery plan, but they can also reveal specific situations management would otherwise ignore. This can also help to prevent crisis situations.

Q. 8 What kind of corporate governance arrangements have you adopted or would you adopt for recovery planning? Please comment on the differences to the template.

Diversity on the board of directors is a key issue in sound and long-term oriented corporate governance. This is of course also the case in relation to recovery planning, meaning that boards need non-executive members with diverse views, skills, and appropriate professional experience.

The value of employee input in this context cannot be overestimated. Employees have a crucial part to play in corporate governance, either as members of the board or as providers of information to the board. It is a question of systemic stability, but also one of sustainable governance: employees are an asset for any company, providing experience, knowledge and expertise, and can contribute with crucial shop-floor perspectives to recovery planning. Creating structures for employee involvement in the management of a company is a win-win measure that benefits all stakeholders.

The value of employee representation in recovery planning and on company boards should therefore be mentioned in this context.

Q. 11: Have you got any remarks or concerns about the confidential nature of the information provided in the recovery plan? If so, please elaborate.

Some of the information in recovery plans has a confidential nature, which must be respected. However, information must be available for use and for preventive action for certain trusted people including trade union or employee representatives under responsibility of confidentiality. Trade union or employee representatives must be able to prepare themselves for the impact of the recovery plan on employment, and therefore should have the right to be informed.

Q. 14: What kind of information arrangements have you put in place to ensure that the right information is available within a short time frame for decision making in a stress situation?

NFU would in this respect like to highlight the benefits of the one-tier system for employee board-level representation. The one-tier system, as used in the Nordic countries, provides the company with a valuable asset.

The company gets an insight on how different issues are perceived from the employee perspective, and the employees get an overview on what the company is doing and how. An employee board-level representative can provide very valuable insights from a supervision perspective. He/she is not only involved in the decision-making of the company, but also has access to direct information on the situation in the company from the employee perspective. Also, being elected for the board by a different group of people than the rest of the board members, employee representatives ensure a bigger versatility of independence in the board. Versatility of independence can prove to be an indispensable asset in stressed situation.

Throughout and after the financial crisis of 2008 it has been evident that the interests of stakeholders such as depositors and, to a certain extent, employees have not been sufficiently taken into account by shareholders and boards. Employee board-level representation needs to be strengthened across Europe also for this reason, in order to provide employees with an



insight regarding the status of the company and in order to strengthen the employee dimension of corporate governance. This is of course all the more important in a stressed situation where a recovery might be at hand. Board members elected by the employees should furthermore be trade union members in order to ensure that the person is supported by an effective network and has links to all employees in all parts of the company.

About NFU

Nordic Financial Unions (NFU) is the voice of the employees in the Nordic financial sectors. We are an organisation for co-operation between trade unions in the banking, finance and insurance sectors of the Nordic countries. Through our eight affiliated unions in Denmark, Sweden, Norway, Finland and Iceland we represent 160 000 members – a vast majority of the employees in the Nordic financial sectors.

Yours faithfully,

Nordic Financial Unions (NFU)

Jorunn Berland
President

Christina J. Colclough
General Secretary