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BaFin

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Finanzdienstleistungsaufsicht

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Circular 03/2024 (A)

Minimum requirements for implementing transfers during a resolution
(MaStructural resolution tools)

To all

- Entities within the meaning of Article 2 of the Single Resolution Mechanism Regulation (SRMR)
- Entities within the meaning of section 1 (1) no. 1 to 3 of the German Recovery and Resolution Act (SAG)

in the Federal Republic of Germany that do not fall under the jurisdiction of the Single Resolution Board (SRB) in accordance with Article 7(2), (4)(b), or (5) of the SRMR.

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List of abbreviations

EAD	Exposure at Default.
FMI(S)	Financial Market Infrastructure(s).
ICAAP	Internal Capital Adequacy Assessment Process (internal bank process to assess whether there are adequate capital resources).
IFRS	International Financial Reporting Standards (International Accounting Standards).
ILAAP	Internal Liquidity Adequacy Assessment Process (internal bank process to assess whether there is an adequate liquidity position).
Issuer Guideline	BaFin's "Issuer Guideline", as amended.
LGD	Loss given Default (default loss ratio).
MaBail-in	BaFin circular on the Minimum requirements for implementing a bail-in, as amended.
MaResolvability	BaFin circular on the Minimum requirements for resolvability within the scope of resolution planning, as amended.
MaRisk	BaFin circular on the Minimum Requirements for Risk Management, as amended.
MaValuation	BaFin circular on the minimum requirements for information systems to provide information for valuations in the context of resolution, as amended.
MIS	Management Information System.
PCEV	Post-conversion equity value in accordance with Directive 2014/59/EU (cf. Article 10(5) of the Commission Delegated Regulation (EU) 2018/345).
PD	Probability of Default.
SRB	Single Resolution Board within the meaning of Article 1 of the SRMR.
VDR	Virtual Data Room.
WDCCI	Write-Down and Conversion of Capital Instruments.

In this circular, the terms listed in Annex I (Glossary) have the meaning assigned to them in Annex I.

Directory of legal sources

BRRD	Bank Recovery and Resolution Directive – Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12 June 2014, p. 190), as last amended by Article 5 of Directive (EU) 2022/2556 of 14 December 2022 (OJ L 333 from 27 December 2022, p. 153).
Commission Delegated Regulation (EU) 2016/1075	Commission Delegated Regulation (EU) 2016/1075 of 23 March 2016 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the content of recovery plans, resolution plans and group resolution plans, the minimum criteria on the basis of which the competent authority is to assess recovery plans and group recovery plans, the prerequisites for intra-group financial support, the requirements concerning the independence of valuers, the contractual recognition of write down and/or conversion powers, the procedures and content of communications and notices of suspension and the specific working methods of resolution colleges (OJ L 184 of 8 July 2016, p. 1).
Commission Delegated Regulation (EU) 2017/867	Commission Delegated Regulation (EU) 2017/867 of 7 February 2017 on the categories of agreements to be protected in the case of partial transfers of assets under Article 76 of Directive 2014/59/EU of the European Parliament and of the Council (OJ L 131 of 20 May 2017, p. 15).
Commission Delegated Regulation (EU) 2018/345	Commission Delegated Regulation (EU) 2018/345 of 14 November 2017 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regulatory technical standards clarifying the criteria concerning the methods used to value the assets and liabilities of institutions or undertakings.
CRD	Capital Requirements Directive – Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176 of 27 June 2013, p. 338), as last amended by Article 146 of Directive (EU) 2023/1114 of 31 May 2023 (OJ L150 from 9 June 2023, p. 40).
CRR	Capital Requirements Regulation – Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176 of 27 June 2013, p. 1), as last amended by Article 1 of Regulation (EU) 2022/2036 of 19 October 2022 (OJ L 275 from 25 October 2022, p. 1).

EBA/GL/2015/05	Guidelines on determining when the liquidation of assets or liabilities under normal insolvency proceedings could have an adverse effect on one or more financial markets in accordance with Article 42(14) of Directive 2014/59/EU.
EBA/GL/2022/11	Guidelines on transferability to complement the resolvability assessment for transfer strategies.
HGB	German Commercial Code (<i>Handelsgesetzbuch</i>) in the amended version published in the Federal Law Gazette Part III, outline number 4100-1, as last amended by Article 13(4) of the Act of 10 March 2023 (Federal Law Gazette 2023 I no. 64).
KStG	Corporation Tax Act (<i>Körperschaftsteuergesetz</i>) in the wording of the announcement of 15 October 2002 (Federal Law Gazette I p. 4144), which was last amended by Article 9 of the Act of 16 December 2022 (Federal Law Gazette I p. 2294).
KWG	The German Banking Act (<i>Kreditwesengesetz</i>) in the wording of the announcement of 9 September 1998 (Federal Law Gazette I p. 2776), as last amended by Article 12 of the Act of 22 February 2023 (Federal Law Gazette 2023 I no. 51).
MAR	Market Abuse Regulation (<i>Marktmissbrauchsverordnung</i>) – Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12 June 2014, p. 1), which was last amended by Art. 1 Regulation (EU) 2019/2115 of 27 November 2019 (OJ L 320, 11 December 2019, p. 1).
SAG	The German Recovery and Resolution Act (<i>Sanierungs- und Abwicklungsgesetz</i>) of 10 December 2014 (Federal Law Gazette I p. 2091), which was last amended by Article 16 of the Act of 3 June 2021 (Federal Law Gazette I p. 1568).
SRMR	The Single Resolution Mechanism Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225 of 30 July 2014, p. 1), as last amended by Article 94 of Regulation (EU) 2021/23 of 16 December 2020 (OJ L 22 from 22 January 2021, p. 1).

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1. Introduction

1.1. In the course of resolution planning, the resolution authority must examine the ability of institutions and groups to be resolved (resolvability assessment) and, if necessary, reduce or remove impediments to the resolvability of the entity. This includes examining whether a selected strategy for the resolution of an entity is feasible and whether there are any potential impediments to the resolvability of the entity (Article 23(1)(c) in conjunction with Articles 26 to 31 of the Commission Delegated Regulation (EU) 2016/1075). Among other things, it must be examined whether the management information systems are capable of providing at any given time – even under rapidly changing conditions – the information essential for the effective resolution of the institution or an entity belonging to the group (Article 29(1) of the Commission Delegated Regulation (EU) 2016/1075 in conjunction with no. 9 of Part C of the Annex to the European Bank Recovery and Resolution Directive (BRRD)). In the context of this circular, this includes whether the institution or group is able to provide the necessary information, processes, structures and systems for the successful implementation of a transfer of shares, assets, liabilities and rights as part of the application of the instruments of a sale of business, transfer to a bridge institution or transfer to an asset management company in accordance with Articles 24 to 26 of the SRMR or section 107 of the SAG (hereinafter “structural resolution tools”).

1.2. This circular specifies in greater detail the requirements that were laid out in the circular “Minimum requirements for resolvability within the scope of resolution planning” (in the following: “MaResolvability”) for the operationalisation of the structural resolution tools. It must be applied in combination with the circular Minimum requirements for information systems to provide information for valuations in the context of a resolution (referred to below as “MaValuation”) and, if applicable, with the circular Minimum requirements for implementing a bail-in (referred to below as “MaBail-in”).

1.3 As the national resolution authority, BaFin will, in particular during resolution planning for institutions and groups within the meaning of Article 7(3) of the SRMR, assume the aspects of resolvability mentioned under 1.1 are given with regard to the application of structural resolution tools if the requirements of this circular are met. In order to ensure a proportional approach, BaFin will advise the institutions and entities belonging to the group within the scope of application of this circular during resolution planning that and at what point in time it requires their ability to meet the requirements set out in this circular.

1.4. This circular clarifies the objective that BaFin expects the institutions or groups concerned to achieve in order to be considered resolvable for the purposes of the feasibility of structural resolution tools. This objective creates a uniform, comparable and transparent basis for resolution planning. The concrete implementation of the requirements of this circular for achieving the objective and the time by which the objective must be achieved will be determined specifically for each institution during resolution planning for the current situation and the presumed implementation effort. During resolution planning, a decision is made as to whether and when the requirements of this circular are to be implemented by an institution or entity in the group.

1.5. This circular represents the national concretisation of key aspects of the guidelines published by the EBA as a supplement to the assessment of the resolvability of structural resolution tools.¹ However, it does not replace the EBA guidelines, which must be complied with by the institutions or group entities in addition to the requirements of this circular.

1.6. Where the term resolvability is used in the following, it refers exclusively to the requirements of this circular with regard to the preparatory measures, information to be provided and the technical and organisational structure for implementing structural resolution measure. The assessment of whether all

¹ EBA/GL/2022/11.

other criteria for the resolvability of an institution and/or an entity that belongs to a group are met remains unaffected and is not the subject of this circular.

2. Background and guidance notes

2.1. The resolution of an institution or group requires swift, well-targeted action by the resolution authority. To this end, the resolution authority requires a large amount of information which the institution or group entity must provide as quickly as possible on the basis of section Article 34 of the SRMR or section 78 (1) no. 1 of the SAG. In particular, this also includes the information required to implement the structural resolution tools, i.e. the instruments of sale of business, transfer to a bridge institution and transfer to an asset management company within the meaning of Article 24(1), Article 25(1) or Article 26(1) of the SRMR or section 107 of the SAG. To ensure that the institutions and entities in the group are able to provide this information in a suitable form and quality at short notice in the event of resolution, they must set up appropriate systems and processes in the form of technical and organisational resources. Furthermore, the institutions and group entities must maintain systems, structures and processes that enable the successful implementation of the structural resolution tools. If such systems and processes are missing or insufficient, this may constitute an impediment to resolution. Compliance with the requirements of this circular serves to avoid the potential identification of impediments to resolvability and a procedure to eliminate them.

2.2. This circular describes BaFin's basic expectations regarding the data, information and processes to be provided in the event of a crisis as well as preparatory measures in resolution planning in connection with the implementation of structural resolution tools.

2.3. BaFin may deviate from the requirements mentioned or, in particular, may impose further requirements and request additional information if deemed necessary in individual cases.

2.4. Irrespective of the foregoing guidance notes, BaFin reserves the right to exercise its authority to carry out procedures to remove impediments to resolvability in accordance with the SRMR and the SAG.

2.5. BaFin reserves the right to amend this circular.

3. Scope

3.1. Explanation of the scope of application

3.1.1. This circular is aimed exclusively at those institutions and entities belonging to the group that fall within the scope of application of the SRMR pursuant to Article 2 of the SRMR or within the scope of application of the SAG pursuant to section 1 (1) numbers 1 to 3 and for which BaFin is responsible as national resolution authority pursuant to Article 7(3) of the SRMR or pursuant to section 1 (1) numbers 1 to 3 of the SAG in conjunction with section 3 of the SAG.

3.1.2. Entities or groups for which the SRB is competent pursuant to Article 7(2), (4)(b) or (5) of the SRMR are not covered by this circular's scope of application.

3.1.3. Furthermore, this circular's scope of application does not in general cover institutions or entities belonging to the group for which the resolution plan provides for a liquidation as part of insolvency proceedings. Furthermore, this circular generally only applies to institutions or group entities for which a preferred or alternative resolution strategy has been defined as part of resolution planning that provides for a transfer within the meaning of Article 24(1), Article 25(1) or Article 26(1) of the SRMR or section 107 of the SAG. However, the resolution authority reserves the possibility of also imposing the requirements envisaged in this circular on institutions or entities belonging to the group for which the resolution plan provides for a liquidation as part of insolvency proceedings or for which the resolution plan does not provide for the application of structural resolution tools. Unless an institution or entity belonging to the group has received corresponding information from BaFin, it may assume that all disclosures within the meaning of this circular are dispensable for the time being and therefore no processes and systems in this respect have to be maintained and no information has to be provided.

3.2. Meeting the requirements

3.2.1. The fulfilment of the requirements of this circular must always be ensured by the resolution entity.

3.2.2. "**Resolution entities**" are institutions or entities belonging to the group for which a resolution plan drawn up in accordance with Article 9 in conjunction with Article 8 of the SRMR or sections 40, 46 of the SAG provides for resolution measures (Article 3(1) no. 24a of the SRMR, section 2 (3) no. 3a of the SAG).

3.2.3. A **resolution group** is

- (a)** a resolution entity and its subsidiaries that are not themselves resolution entities, subsidiaries of other resolution entities or entities established in a third country that are not part of the resolution group in accordance with the resolution plan, and their subsidiaries; or
- (b)** CRR credit institutions permanently assigned to a central body and the central body itself, if at least one of these credit institutions or the central body is a resolution entity, and their respective subsidiaries (Article 3(1) no. 24b of the SRMR, section 2 (3) no. 3b of the SAG).

4. Structural resolution tools

4.1. Overview: structural resolution tools

4.1.1. There are three structural resolution tools:

- the sale of business tool (hereinafter “**sale of business**”): transfer of shares in the resolution entity (hereinafter “share deal”) or of assets, rights and liabilities of the resolution entity (hereinafter “asset deal”) to a third party (Article 24 of the SRMR or section 107 (1) (1) (a) of the SAG);
- the tool of transferring to a bridge institution (hereinafter “**bridge institution**”): transfer of shares in the resolution entity (share deal) or of assets, rights and liabilities of the resolution entity (asset deal) to a bridge institution (Article 25 of the SRMR or section 107 (1) (1) (b) of the SAG); and
- the tool of transferring to an asset management company (hereinafter “**asset management company**”): transfer of assets, rights and liabilities of the resolution entity (asset deal) to an asset management company (Article 26 of the SRMR or section 107 (1) (2) of the SAG).

4.1.2. The provisions distinguish between the transfer of shares in the resolution entity (**share deal**) and the transfer of assets, rights and liabilities of the resolution entity (**asset deal**). While the sale of business and the bridge institution can be structured as both a share deal and an asset deal, the transfer to an asset management company can only take the form of an asset deal. With the exception of the transfer to an asset management company, the transferring legal entity must be liquidated after a transfer in the form of an asset deal (Article 22(5) of the SRMR and section 116 (1) sentence 2 of the SAG). If there are grounds for insolvency, liquidation takes place at the request of the resolution authority as part of normal insolvency proceedings (section 116 (1) sentence 1 of the SAG).

4.1.3. While an asset deal generally involves the **separation** of assets, rights and liabilities to be transferred from those that are to remain in the resolution entity, separation is generally not necessary in the case of a share deal because the resolution entity is retained as a whole.² The need for separation increases the expense and complexity of a resolution and requires extensive preparations in the resolution planning. Challenges in the context of the separation include, in particular, ensuring the operational and financial continuity of the acquiring legal entity and compliance with statutory protective provisions when selecting the transfer items in accordance with section 110 of the SAG in conjunction with the Commission Delegated Regulation (EU) 2017/867.

4.1.4. The acquiring entity must pay a **consideration** for the transfer (Article 20(5)(e) of the SRMR, Article 24(2)(b) of the SRMR and section 111 of the SAG). In the case of an asset management company or a bridge institution, the consideration is determined by the result of the valuation in accordance with Article 20 of the SRMR or section 69 of the SAG (Article 20(5)(e) of the SRMR or sections 111 (2) and (3) of the SAG). In the event of the sale of business, however, the amount of the consideration is determined as part of a marketing process in accordance with Article 24(2)(d) of the SRMR or section 126 of the SAG or, if a marketing process is waived, in accordance with Article 24(2)(e) of the SRMR or section 126(3) of the SAG outside of a marketing process (section 111(1) of the SAG). The consideration is to be paid in cash or as shares in the acquiring legal entity (section 111 (5) of the SAG). In the event of a transfer to an asset management company, the consideration may also be paid in debt instruments of the acquiring legal entity (section 111 (5) of the SAG). If, when applying the tools of transfer to an asset management company, the calculated value of the transfer items is negative, the obligation of the transferring legal entity

² In exceptional cases, the separation may also be relevant for a share deal; for example, if group entities are outside the resolution group and/or the resolution group is part of a banking network.

to grant a **compensation** to the acquiring legal entity generally replaces the consideration (section 111 (3) of the SAG).

4.1.5. The resolution authority orders the transfer by means of a resolution order pursuant to section 77, section 137 in conjunction with section 107 of the SAG. However, the transfer requires the **consent** of the acquiring legal entity (section 109 (1) sentence 1 of the SAG). In the event of the sale of business, the consent must also be notarised (section 109 (1) sentence 3 of the SAG).

4.1.6. Due to the regular urgency of resolution, the SAG provides for **facilitations** that serve the swift implementation of a transfer and the seamless continuation of business operations after a transfer:

- **Membership of and access to financial market infrastructures, investor compensation schemes and deposit guarantee schemes:** pursuant to section 118 (3) of the SAG, the acquiring legal entity, as the successor in title of the institution under resolution, may continue to exercise all rights previously exercised by the institution under resolution in relation to the transferred items. This applies in particular to access to financial market infrastructures and membership in investor compensation schemes and deposit guarantee schemes.
- **Permits, authorisations and approval procedures:** if the acquiring legal entity does not yet have the required licences, authorisations or approvals, the resolution order pursuant to section 119 (2) of the SAG will be deemed an application for the granting of the licence, authorisation or approval in Germany. The application must be approved immediately. Until the required licence, authorisation or approval is finally granted, it is deemed to have been granted temporarily (section 119 (3) of the SAG).
- **Qualifying holding procedure:** in accordance with section 120 of the SAG, the supervisory authority will carry out the assessment pursuant to section 2c of the German Banking Act (*Kreditwesengesetz* – KWG) in a timely manner so that the application of the corresponding resolution tool is not delayed. If the supervisory authority does not finalise its assessment by the time the transfer takes effect, the transfer will nevertheless take effect without there being an obstacle to execution (section 120 (2) no. 1 of the SAG).

4.1.7. Due to the separation required in an asset deal, it is necessary for there to be **mutual support** between the acquiring and transferring legal entities. The legislator therefore authorises the resolution authority under section 80 of the SAG to order the transferring legal entity to provide the acquiring legal entity with the relevant information, services, facilities and employees required for the effective operation of the transferred business. Furthermore, section 123 of the SAG stipulates that the transferring legal entity must temporarily authorise the acquiring legal entity to (co-)use remaining assets on whose use the acquiring legal entity relies, in return for payment. The obligation applies in a mirror image in the event of an utilisation need on the part of the transferring legal entity.

4.1.8. Numerous requirements must also be met to ensure the **operational implementation** of structural resolution tools. In particular, the following must be present:

- **Operational continuity** (asset deal and share deal): the operational continuity of the transferred business must already be ensured immediately after the resolution, and on a permanent basis. In this context, the requirements for an asset deal are generally more extensive than for a share deal and regularly relate, for example, to the guarantee of services between the acquiring and transferring legal entities and the maintenance of required access to financial market infrastructures.
- **Financial continuity** (asset deal and share deal): the financial continuity of the acquiring legal entity must be ensured immediately after the resolution, and on a permanent basis. In the event of a sale of business, the responsibility for ensuring financial continuity lies with the acquirer.

- **Separability** (especially in the case of asset deals)³: when carrying out a transfer, a legally compliant, economically viable and operationally realisable selection of transfer items and objects that remain in the resolution entity must be made. With regard to the legal requirements, the protective provisions pursuant to section 110 of the SAG in conjunction with the Commission Delegated Regulation (EU) 2017/867 must be observed.

4.1.9. If a transfer takes place as part of an asset deal, the SAG provides for the possibility, in principle and within clear limits, to adjust the entirety of the transfer items (hereinafter “transfer perimeter”) by **retransferring** certain transfer items after resolution. This can be done, for example, if it turns out after resolution that certain transfer items do not fulfil the basic criteria for the transfer. The statutory provisions and requirements regarding possible retransfers differ depending on the structural resolution tool. The special provisions apply: section 127 of the SAG (sale of business), section 131 of the SAG (bridge institution) and section 135 of the SAG (asset management company).

4.2. Specifics of a sale of business

4.2.1 In contrast to the bridge institution or asset management company, the sale of business to an independent third party (hereinafter “acquirer”) is generally carried out after a **marketing process** (Article 25 of the SRMR or section 126 of the SAG). The marketing process must fulfil the requirements of section 126 (2) of the SAG and, in particular, be open, transparent and non-discriminatory. For the resolution entity, the resolution tool requires, among other things, the establishment of a data room for the due diligence to be carried out by potential acquirers. The resolution authority may also carry out the sale of business without a marketing process if it comes to the conclusion that compliance with the requirements for the marketing process is likely to impair the effectiveness of the sale of business tool and thus the achievement of one or more resolution objectives (section 126 (3) of the SAG).

4.2.2. The planning of a sale of business is only appropriate for institutions or parts of institutions where there is a reasonable prospect of a **successful sale**.

4.2.3. The **recapitalisation** of the resolution entity or resolution group in the event of a sale of business as share deal can generally be carried out by (i) a bail-in before the transfer, (ii) the acquirer after the transfer or (iii) a combination of the two approaches.

4.3. Specifics of the bridge institution

4.3.1. The requirements in Section 128 of the SAG apply for a bridge institution. In particular, the bridge institution must be controlled by the resolution authority and must be held in whole or in part by it or another public body (section 128 (1) of the SAG). The control of the bridge institution by the resolution authority can also be maintained even if it holds no or only a very small stake in the bridge institution, as pursuant to section 125 (1a) of the SAG it can order all measures necessary for the effective exercise of control within the meaning of section 128 (1) no. 2 of the SAG. In addition, pursuant to section 124 (1) to (3) of the SAG, the voting rights are transferred to the resolution authority after resolution.

4.3.2. The bridge institution must be operated with the aim of maintaining access to critical functions and achieving a **sale of** the institution as a whole or in parts within two years (section 128 (3) of the SAG). The resolution authority may also extend the two-year period several times by one year if the requirements of section 128 (4) of the SAG are met.

³ In exceptional cases, the separation may also be relevant for a share deal; for example, if group entities are outside the resolution group and/or the resolution group is part of a network.

4.3.3. If the transfer to the bridge institution takes place as an asset deal, at least the critical functions are generally transferred. During the transfer, it must be ensured that the **viability** of the bridge institution is guaranteed at least until the planned implementation of the exit strategy.

4.3.4. In the event of a transfer to a bridge institution as share deal, **capitalisation** can take place at the level of the resolution entity prior to the transfer by means of the tool of creditor participation (hereinafter referred to as a “bail-in”). If the consideration for the transfer is paid in shares in the bridge institution, the shareholders of the resolution entity become shareholders in the bridge institution (after the transfer has been carried out and the consideration has been paid). In the case of an asset deal, the bridge institution can be capitalised through the transfer of more assets than liabilities (“asset overhang”), through a bail-in at the level of the bridge institution after the transfer or through a combination of the two approaches. If the consideration for the transfer is paid in the form of shares in the bridge institution, the transferring legal entity becomes a shareholder in the bridge institution (after the transfer has been carried out and the consideration has been paid).

4.4. Specifics of the asset management company

4.4.1. The transfer to an asset management company can only take place if at least one of the three transfer purposes specified in section 132 of the SAG applies. That means if

- realisation of the transfer items as part of insolvency proceedings could have a **negative impact** on one or more **financial markets** given the situation on the market;
- the transfer is necessary to ensure the **orderly functioning** of the institution under resolution or the bridge institution; or
- the transfer is necessary in order to maximise the corresponding **realisation proceeds**.

The relevant EBA guidelines must be observed with regard to the examination of the first condition.⁴

4.4.2. The asset management company may only be used in combination with another resolution tool (Article 22(4) of the SRMR and section 77 (7) of the SAG). Furthermore, the asset management company must have a constitution as defined in section 133 of the SAG. It must be controlled by the resolution authority and must be held in whole or in part by the resolution authority or another public body (section 133 (1) of the SAG). The **control** of the asset management company by the resolution authority can also be maintained if the resolution authority holds no or only a very small stake in the asset management company, as the resolution authority can order all measures necessary for the effective exercise of control within the meaning of section 133 (1) no. 2 of the SAG pursuant to section 125 (1a) of the SAG.

4.4.3. The asset management company serves the best possible liquidation of the transfer items and must be operated with the aim of maximising the **realisation proceeds** through the divestiture or orderly resolution (section 133 (3) of the SAG). One application example is the transfer of “problematic assets” to ensure the orderly functioning of the institution under resolution (section 132 (1) no. 2 of the SAG).

⁴ Cf. inter alia EBA/GL/2015/05.

5. Resolution tools as share deal

5.1. General preparations by the resolution entity

5.1.1. Technical/organisational structure: in order for the institution or group to be considered resolvable, processes, systems and technical and human resources for implementing the structural resolution tools (share deal) must be available at all times in the event of a crisis. In this regard, the resolution entity must extend the “*resolution-related governance*” (principle 1.2 of the Minimum requirements for resolvability) to include aspects specific to the resolution tool in planning and in the event of a crisis.

5.1.2. External interconnectedness analysis: in order for the institution or group to be considered resolvable, an interconnectedness analysis must be carried out and regularly updated during resolution planning with regard to the resolution strategy to be implemented. In particular, the following challenges must be analysed and corresponding solution concepts (e.g. resolution-proof contracts with third parties) must be developed and established for the period before, during and after resolution. In particular, interconnectedness (i) with Group entities outside the resolution group, (ii) other entities within the same network and/or (iii) other third parties relevant to the resolution (e.g. counterparties, service providers) must be considered:

- operational and personnel interconnectedness (e.g. service agreements for IT, accounting, compliance, joint use of buildings, third-country service agreements (change of control, acceleration clauses, etc.), service agreements via intermediate companies, personnel interconnectedness, (further) outsourcing);
- financial interconnectedness (e.g. guarantees granted and received, liabilities, collateralisation, loans, significant financial market infrastructures, significant counterparties, joint liquidity management);
- economic interconnectedness (e.g. joint sales channels, platforms and partners);
- interconnectedness relevant to the network/sector (e.g. schemes safeguarding the viability of institutions, depositor and investor compensation schemes, joint IT applications/platforms, holdings in affiliated companies, aspects of trademark law);
- corporate, commercial and tax law interconnectedness (e.g. profit and loss transfer and/or control agreements, letters of comfort, tax groups, commercial and prudential scope of consolidation, group accounting).

5.1.3. Financial continuity: in order for the institution or group to be considered resolvable, it must be ensured that financial continuity is always maintained in the event of resolution during and after the implementation of the structural resolution tools (share deal). For this purpose, the resolution entity must extend principles 3.1 to 3.3 of the Minimum requirements for resolvability within the scope of resolution planning to include aspects specific to the resolution tool in planning and in the event of a crisis. In particular, the solution concepts developed for the above interconnectedness must be integrated into the **overall concept for ensuring financial continuity** and its implementation in the event of a resolution must be prepared by the system. The concept must be designed in such a way that it can be specified in greater detail and promptly supplemented in the event of a specific crisis. In addition to the system-side requirements of the MaBail-in circular for the implementation of the write-down and conversion (e.g. preparation of a new balance sheet, income statement, RWA and own funds calculation), it must be ensured, among other things, that after the resolution, taking into account the interconnectedness identified above

- the regulatory and economic capital and (projected) liquidity requirements of the resolution group during the crisis, during resolution and after resolution can be determined at short notice and solutions can be implemented with the acquiring legal entity; and
- the acquiring legal entity can be supported in the fulfilment of all financial obligations.

5.1.4. Operational continuity: in order for the institution or group to be considered resolvable, it must be ensured that operational continuity is maintained at all times during and after the implementation of the structural resolution tools (share deal). For this purpose, the resolution entity must extend principles 4.1 to 4.6 of the Minimum requirements for resolvability within the scope of resolution planning to include aspects specific to the resolution tool in planning and in the event of a crisis. In particular, the solution concepts developed for the above interconnectedness must be integrated into an **overall concept to ensure operational continuity** and its implementation must be prepared on the system side in the event of a resolution. The concept must be designed in such a way that it can be specified in greater detail and promptly supplemented in the event of a specific crisis. In addition, it must be ensured that after the resolution, taking into account the interconnectedness identified above, among other things

- the business relationship with key players from the interconnectedness analysis (e.g. third-country service providers and financial market infrastructures) is stabilised and
- relevant employees continue to be available.

5.1.5. Data and information provision: in order for the institution or group to be considered resolvable, it must be ensured that appropriate management information systems and an appropriate technical and organisational infrastructure are in place to successfully implement the resolution strategy in the event of a crisis, in particular to ensure financial and operational continuity after the transfer of shares. For this purpose, the resolution entity must extend principles 5.1 to 5.3 of MaResolvability within the scope of resolution planning to include aspects specific to the resolution tool in planning and in the event of a crisis. In particular, this means that the resolution entity must be able to provide the resolution authority with up-to-date information at all times before, during and after resolution so that the resolution authority can make informed decisions. It should also be noted that information and data must be provided for the purposes of the valuation, the sale of business and the WDCCI/bail-in in accordance with MaValuation and MaBail-in.

5.1.6. Crisis communication: in order for the institution or group to be considered resolvable, it must be ensured that appropriate communication takes place during and after the implementation of the structural resolution tools (share deal). For this purpose, the resolution entity must expand principles 6.1 and 6.2 of the Minimum requirements for resolvability within the scope of resolution planning to include aspects specific to the resolution tool in planning and in the event of a crisis. In particular, the disclosure obligations in accordance with MAR must be addressed.⁵ Other disclosure obligations in third countries may also have to be taken into account.

5.1.7. Transfer playbooks: in order for the institution or group to be considered resolvable, it must be ensured that all of the above-mentioned aspects as well as the special preparations (see sub-chapters 5.2. and 5.3.) are documented in detail in a transfer playbook. The exact structure of the transfer playbook depends on the respective resolution tool; the following sub-chapters contain suggested structures.

⁵ See also BaFin's "Issuer Guideline", as amended.

5.2. Special preparations for the sale of business (share deal)

5.2.1. Overview: the priority area of the resolution entity's preparations when planning the resolution tool of the sale of business (share deal) lies in particular on (i) the marketability analysis and (ii) the operationalisation of the marketing process (e.g. operation of the virtual data room, VDR) in the event of a crisis. It should also be noted that the requirements for carrying out a resolution valuation in accordance with MaValuation and the WDCCI power in accordance with MaBail-in must always be fulfilled.

5.2.2. Timetable: the duration of the **marketing process** is generally selected by the resolution authority depending on the specific crisis situation and the size and complexity of the transfer item. In order to enable efficient resolution planning, the preparations of the resolution entities are generally based on two exemplary scenarios defined by the resolution authority, which the resolution entity uses as a guide when operationalising the planning of the sale of business tool. The details must be discussed with the resolution authority as part of the resolution planning.

- (1) Longer planning horizon:** this timetable covers a total period of three weeks and allows the potential acquirers and the valuer approximately ten days for the due diligence and valuation, respectively.
- (2) Shortened planning horizon:** this timetable covers a total period of four days (e.g. Thursday to Sunday) and allows the potential acquirers and the valuer approximately 24 hours for the due diligence and valuation respectively.

5.2.3. Preparations: in order for the institution or group to be considered resolvable, the following specific preparations for the sale of business tool (share deal) must be made in addition to the general preparations described in sub-chapter 5.1.:

- a. Marketability analysis:** the marketability of the resolution entity and the associated resolution group must be analysed. In particular, the analysis should take into account the strategic orientation, size and complexity, business activities and business model, customer relationships, market concentration, market development opportunities, distribution channels and geographical breakdown in relation to the existence of potentially suitable acquirers.
- b. Approach concerning potential acquirers:** lists must be prepared regarding the universe of potential acquirers from the perspective of the institution on the basis of the marketability analysis. The analysis should take into account the following aspects, among others: financial capacity (distributable funds, ability to raise capital, access to the capital market), transaction experience, affiliation to the group, competition law aspects, chances of success and possible impediments to qualifying holding procedures, need for authorisations and approvals in third countries, strategic considerations.
- c. Information memorandum:** an information memorandum must be prepared and made available to potential purchasers in the event of a crisis as part of the VDR sales process. In the context of a crisis, it must be updated or supplemented at short notice. The information memorandum contains all information that is material from the perspective of a potential acquirer in a clear form (in particular information that is required to clearly determine the transfer items and a brief description of the object of the sale, e.g. business units, core products and customer focus, regional breakdown, market position and material legal entities) and comprehensively describes the resolution group and the background to the crisis. The exact content of the information memorandum must be agreed with the resolution authority as part of the resolution planning.

- d. Operation of VDR:**⁶ as part of the realisation of the marketing process, the resolution entity is responsible in particular for operating the VDR for the selected potential purchasers and the valuer in the event of a crisis. This also includes the managerial and content-related assumption of the structured question and answer process within the VDR for the potential purchasers and the valuer in accordance with MaValuation. However, additional requirements must be observed here, so that the valuer and potential acquirer may each receive different rights of use. A concept must be drawn up as to which information is to be provided in each case and which information is to be blacked out (e.g. personal data, proprietary information).
- e. Process plan:** on the basis of the two exemplary timetables and in close coordination with the resolution authority, the resolution entity must develop a schedule that shows how the resolution entity will support the implementation of the sale of business tool (share deal). In particular, it includes all relevant milestones, activities, interconnections, time specifications, responsibilities as well as internal and external dependencies.

5.2.4. Transfer playbook: in order for the institution or group to be considered resolvable, a transfer playbook must be drawn up that includes the general and specific preparations for the implementation of the sale of business tool. It should be noted that the instrument of the sale of business can only be one resolution tool in a preferred or alternative resolution strategy.⁷ The resolution entity must first determine which aspects are to be considered in which manuals, taking into account the overall resolution tools to be prepared, and create a corresponding overview of the manuals.⁸

The following table shows the structure of the transfer playbook in the event of a sale of business (share deal), which can be modified and expanded in consultation with the resolution authority.

Table 1: Index transfer playbook sale of business (share deal)

No.	Description
1. Introduction	
	<ul style="list-style-type: none"> Purpose, objective and structure of the document Brief description of the key elements of the resolution strategy (all envisaged instruments) Key challenges of operationalising the resolution strategy
2. Description of the transfer	
	Purpose of the transfer and the resolution strategy ⁹
2.1.	<ul style="list-style-type: none"> Resolution objectives at risk, e.g. ensuring the continuity of critical functions Brief description of the transfer, e.g. sale of shares after change of legal form
2.2.	Marketability analysis (in accordance with 5.2.3. a)
	Approach concerning potential acquirers (in accordance with 5.2.3. b.)
2.3.	<ul style="list-style-type: none"> Analysis of potential acquirers and justification List of potential acquirers in the event of a crisis
2.4.	Operation of virtual data room in accordance with 5.2.3. d. (if applicable, reference to the manual for the provision of information in accordance with MaValuation)
3. Interconnectedness analysis in accordance with 5.1.2.	
	Interconnectedness and relationships between the resolution group and the rest of the group, if relevant
3.1.	<ul style="list-style-type: none"> Presentations and analysis of the material interconnectedness in the specified categories and the challenges in implementing the resolution strategy Development of solution concepts with regard to possible challenges of the material interconnectedness in the implementation of the resolution strategy

⁶ For further information, see BaFin's Circular MaValuation.

⁷ In addition, a resolution valuation is always a prerequisite for the application of a resolution tool.

⁸ For example, in certain cases it may be appropriate (1) to include governance and communication in separate manuals, (2) to include the operation of the data room (also for potential acquirers) in full in the manual on the provision of information (in accordance with MaValuation) and/or (3) to present creditor participation in the case if a sale of the entity in a bail-in manual.

⁹ Contents of this part are to be documented based on the requirements of the resolution authority.

No.	Description
3.2.	<p>Interconnectedness and relationships between the resolution group and the network, if relevant</p> <ul style="list-style-type: none"> • Presentations and analysis of the material interconnectedness in the specified categories and the challenges in implementing the resolution strategy • Development of solution concepts with regard to possible challenges of the material interconnectedness in the implementation of the resolution strategy
3.3.	<p>Interconnectedness and relationships between the resolution group and other third parties, if relevant</p> <ul style="list-style-type: none"> • Presentations and analysis of the material interconnectedness in the specified categories and the challenges in implementing the resolution strategy • Development of solution concepts with regard to possible challenges of the material interconnectedness in the implementation of the resolution strategy
4. Implementation of the resolution strategy	
4.1.	<p>Ensuring financial continuity in accordance with 5.1.3 (reference to separate manual if necessary)</p> <ul style="list-style-type: none"> • Presentation of an overall concept including the solution concepts developed to take the interconnectedness and other relevant aspects into account • Reference to any outsourced aspects, e.g. FMI contingency plans, bail-in manuals
4.2.	<p>Ensuring operational continuity in accordance with 5.1.4 (reference to separate manual if necessary)</p> <ul style="list-style-type: none"> • Presentation of an overall concept including the solution concepts developed to take the interconnectedness and other relevant aspects into account • Reference to any outsourced aspects, e.g. FMI contingency plans, bail-in manuals
4.3.	Where applicable, Ensuring the implementation of WDCCI/bail-in (reference to bail-in manual in accordance with MaBail-in, if applicable)
5. Crisis communication	
5.1.	Communication plan in accordance with principle 6.1 of MaResolvability (reference to own communication manual if applicable)
5.2.	Governance for communication in accordance with principle 6.2 of MaResolvability (reference to own communication manual if applicable)
6. Governance and crisis plan	
6.1.	Governance for implementing the instrument in accordance with 5.1.1 (reference to own governance manual if applicable)
6.2.	Process plan (combined with process plans for other resolution tools, e.g. bail-in, if applicable)
7. Open points and challenges	
7.1.	Open points/challenges/solution concepts regarding the interconnectedness analysis
7.2.	Open points/challenges/solution concepts regarding financial continuity
7.3.	Open points/challenges/solution concepts relating to operational continuity
7.4.	Other open points/challenges/solution concepts
8. Annexes	
8.1.	Contact list
8.2.	Information memorandum in accordance with 5.2.3. c.
8.3.	Detailed process plan for both schedules in accordance with 5.2.3. e.

5.3. Special preparations for the bridge institution (share deal)

5.3.1. Overview: while the priority area of the resolution tool of the sale of business (share deal) focusses on planning the marketability analysis and the marketing process, the institution-specific focus of the special preparation of the bridge institution (share deal) is dedicated to ensuring operational and financial continuity, as the financial and operational support of an acquirer is no longer available. The bridge institution must be fundamentally capable of surviving "on its own". It should also be noted that the requirements for carrying out a resolution valuation in accordance with MaValuation of the WDCCI power in accordance with MaBail-in must be fulfilled.

5.3.2. Timetable: the time frame for the implementation of the resolution measure is selected by the resolution authority depending on the specific crisis situation and the size and complexity of the resolution group in resolution. In order to enable efficient resolution planning, the resolution authority sets a total time frame of four days (e.g. Thursday through Sunday), of which the valuer has about 24 hours to come up with the valuation.

5.3.3. Preparations: in order for the institution or group to be considered resolvable, the following (1) special preparations must be carried out and (2) concepts for the financial and operational continuity of the bridge institution must be supplemented in addition to the general preparations described in sub-chapter 5.1. The concepts must be designed in such a way that they can be promptly specified in greater detail in the event of a specific crisis:

- a. **Concept of the regulatory requirements:** development of a concept in relation to supervisory requirements that the bridge institution and the resolution entity must fulfil after resolution at solo entity level and/or consolidated level (e.g. depending on the supervisory scope of consolidation).
- b. **Accounting concept:** elaboration of an accounting concept from which the effects of the transfer on the bridge institution under commercial law and proposed solutions (including justifications) are evident, in particular with regard to
 - **scope of consolidation under commercial law:** analysis for the bridge institution and the resolution group, in particular with regard to the applicability of exemptions;
 - **accounting standard:** analysis of whether accounting in accordance with the Commercial Code (HGB) or IFRS would be more favourable (in the case of the obligation to prepare consolidated financial statements and exercise of the option);
 - **balance sheet transfer:** analysing the procedure for balance sheet transfers, the obligation to prepare financial statements as at the balance sheet date, the possible disclosure of hidden reserves, the preparation of post-formation, audits of capital increases through contributions in kind, etc.
- c. **Tax concept:** preparation of a tax concept showing the tax effects (on the bridge institution and the resolution entity or the resolution group) of the transfer to the bridge institution (assumptions, exercise of options, structuring measures, quantification, deferred tax assets and liabilities, loss carry-forwards, etc.) as well as proposed solutions, in particular with regard to the tax consequences for the bridge institution and the resolution group:
 - **income taxes:** ensuring that closing tax accounts can be prepared promptly in relation to the effective date of the resolution in the event of a crisis;
 - **value added tax:** estimation of the VAT effects;

- **real estate transfer tax:** indicative determination of the amount of land transfer tax arising from the divestiture;
 - **special tax issues:** for example, indicative determination of loss carryforwards and the relevant facts for the applicability of tax relief regulations pursuant to sections 8c and 8d KStG, tax aspects of third countries.
- d. Concept of the operational organisation:** development of a concept for the operational organisation of the bridge institution, in particular:
- creation of an operational and organisational structure for the bridge institution (required organisational units, separation of functions, personnel planning and provision of personnel);
 - identification of the services to be provided to the bridge institution in the future on the basis of the proposed operational organisation of the bridge institution;
 - development of contract templates for the service agreements to be concluded between the bridge institution and the resolution group in the event of a crisis (including the scope of services and pricing);
 - identification of the IT authorisations and adjustments required as part of servicing (if necessary, setting up multi-client capability, etc.);
 - comprehensive consideration of the supervisory requirements for outsourcing for the service management of the bridge institution.
- e. Preparation of a rating concept,** in particular estimation of the rating requirements after resolution, preparation of the necessary rating processes (in particular identification of the required information and application processes), rating assessment against the background of the planned capitalisation as well as preparation of a concept for the updating and implementation once in resolution.
- f. Marketing strategy:** analysis of the marketability of the bridge institution or its assets, liabilities and rights, in particular an explanation of how the marketing or liquidation of the bridge institution could be achieved within the meaning of section 129 of the SAG. Among other things, the characteristics of the objects of sale (strategic orientation, size, etc.) and the universe of potential buyers must be taken into account.¹⁰
- g. Process plan:** based on the exemplary timetable and in close coordination with the resolution authority, the resolution entity must develop a process plan that shows how the resolution entity will support the implementation of the bridge institution tool (share deal). In particular, it includes all relevant milestones, activities, interconnections, time specifications, responsibilities and external dependencies.

5.3.4. Transfer playbook: in order for the institution or group to be considered resolvable, a transfer playbook must be drawn up that includes the general and specific preparations for the implementation of the bridge institution tool. It must be taken into account here that the bridge institution can only be

¹⁰ See also Parts 5.2.3. a and 5.2.3. b.

one resolution tool in a preferred or alternative resolution strategy.¹¹ The resolution entity must first determine which aspects are to be considered in which manuals, taking into account the overall resolution tools to be prepared, and create a corresponding overview of the manuals.¹²

The following table shows the proposed structure of the transfer playbook for the case of the bridge institution (share deal), which can be modified and expanded in consultation with the resolution authority.

Table 2: Index transfer playbook bridge institution (share deal)

No.	Description
1. Introduction	
	<ul style="list-style-type: none"> Purpose, objective and structure of the document Brief description of the key elements of the resolution strategy (all envisaged instruments) Key challenges of operationalising the resolution strategy
2. Description of the transfer	
2.1.	Purpose of the transfer and the resolution strategy ¹³ <ul style="list-style-type: none"> Resolution objectives at risk, e.g. ensuring the continuity of critical functions Brief description of the transfer, e.g. sale of shares after change of legal form
2.2.	Marketing strategy for the bridge institution <ul style="list-style-type: none"> Explanation of how the marketing/liquidation of the bridge institution is to be achieved within the meaning of section 129 of the SAG Feasibility analysis with regard to the marketing strategy
3. Interconnectedness analysis in accordance with 5.1.2.	
3.1.	Interconnectedness and relationships between the resolution group and the rest of the group, if relevant <ul style="list-style-type: none"> Presentations and analysis of the material interconnectedness in the specified categories and the challenges in implementing the resolution strategy Development of solution concepts with regard to possible challenges of the material interconnectedness in the implementation of the resolution strategy
3.2.	Interconnectedness and relationships between the resolution group and the network, if relevant <ul style="list-style-type: none"> Presentations and analysis of the material interconnectedness in the specified categories and the challenges in implementing the resolution strategy Development of solution concepts with regard to possible challenges of the material interconnectedness in the implementation of the resolution strategy
3.3.	Interconnectedness and relationships between the resolution group and other third parties, if relevant <ul style="list-style-type: none"> Presentations and analysis of the material interconnectedness in the specified categories and the challenges in implementing the resolution strategy Development of solution concepts with regard to possible challenges of the material interconnectedness in the implementation of the resolution strategy
4. Implementation of the resolution strategy	
4.1.	Ensuring financial continuity in accordance with 5.1.3. and 5.3.3. (reference to separate manual if necessary) <ul style="list-style-type: none"> Presentation of an overall concept including the solution concepts developed to take the interconnectedness and other relevant aspects into account Reference to any outsourced aspects if applicable, e.g. FMI contingency plans, bail-in manual
4.2.	Ensuring operational continuity in accordance with 5.1.4. and 5.3.3. (reference to separate manual if necessary) <ul style="list-style-type: none"> Presentation of an overall concept including the solution concepts developed to take the interconnectedness and other relevant aspects into account Reference to any outsourced aspects if applicable, e.g. FMI contingency plans, bail-in manual
4.3.	Where applicable, ensuring the implementation of WDCCI/bail-in (reference to bail-in manual in accordance with MaBail-in, if applicable)

¹¹ In addition, a resolution valuation is always a prerequisite for the application of a resolution tool.

¹² For example, in certain cases it may be appropriate (1) to include governance and communication in separate manuals, (2) to include the operation of the data room (also for potential acquirers) in full in the manual on the provision of information (in accordance with MaValuation) and/or (3) to present creditor participation in the case if a sale of the entity in a bail-in manual.

¹³ Contents of this part are to be documented based on the requirements of the resolution authority.

No.	Description
5. Crisis communication	
5.1.	Communication plan in accordance with Principle 6.1 (reference to own communication manual if applicable)
5.2.	Governance for communication in accordance with principle 6.2 (reference to own communication manual if applicable)
6. Governance and crisis plan	
6.1.	Governance for implementing the instrument in accordance with 5.1.1 (reference to own governance document if applicable)
6.2.	Process plan (combined with process plans for other resolution tools, e.g. bail-in, if applicable)
7. Open points and challenges	
7.1.	Open points/challenges/solution concepts regarding the interconnectedness analysis
7.2.	Open points/challenges/solution concepts regarding financial continuity
7.3.	Open points/challenges/solution concepts relating to operational continuity
7.4.	Other open points/challenges/solution concepts
8. Annexes	
8.1.	Contact list
8.2.	Detailed process plan

6. Transfer perimeter in the case of an asset deal

6.1. Challenges

6.1.1. In contrast to a share deal, in which the shares in the resolution entity are transferred, an asset deal involves deciding which assets, liabilities and/or rights are to be transferred and how their financial and operational continuity can be ensured. This is done with the separation analysis, which must always be carried out by the resolution entity and the resolution authority in close cooperation.

6.1.2. An integral part of the separation analysis is the determination of the total of all transfer items (hereinafter “transfer perimeter”). The selection of the transfer items is generally at the discretion of the resolution authority. It must exercise its discretion in accordance with the fulfilment of the resolution objectives and comply with the statutory limits of discretion. The legal limits result in particular from the protective provisions of section 110 of the SAG, which are supplemented by the provisions of the Commission Delegated Regulation (EU) 2017/867.

6.1.3. The resolution authority cannot carry out the selection of the transfer items independently, but requires extensive input from the resolution entity, as bank-specific analyses, data and information are required at a partially granular level to determine the transfer perimeter. In addition to the objective and purpose of the selected resolution tool or resolution strategy and the protective provisions of section 110 of the SAG in conjunction with Commission Delegated Regulation (EU) 2017/867, a number of other aspects (e.g. ensuring operational and financial continuity of the acquiring legal entity) must be taken into account.

6.1.4. Among other things, the resolution entity must provide the resolution authority with detailed **transfer-relevant data** and (based on the requirements of the resolution authority) carry out a segregation analysis as part of an iterative approach with the resolution authority. In the resolution planning, (i) the transfer perimeter must be determined as part of the separation analysis, (ii) concepts for financial and operational continuity must be drawn up and (iii) the technical and organisational prerequisites for carrying out the separation analysis and separation in the event of a crisis must be created.

6.2. Overview of the procedural model

6.2.1. The interplay of the statutory limits on discretion means that the resolution authority must essentially take two aspects into account when selecting the transfer items, taking into account the resolution objectives:

- (1) It must decide which assets, liabilities and/or rights may not or should not be separated (**protective provisions**).
- (2) It must decide on the basis of which criteria transfer items are to be determined (**selection criteria**) and on the basis of which criteria objects are to be excluded from the transfer (**transfer filter**).

6.2.2. To ensure that the resolution authority can exercise its discretion in accordance with its duties, BaFin has developed an **ideal procedure model** for determining the transfer perimeter **in the event of a crisis**. It provides the resolution entities with guidance on the necessary analysis and coordination steps and the required technical and organisational infrastructure during resolution planning. The procedural model can be adapted in consultation with the resolution authority based on the specific features

of the institution's internal systems, processes and structures as well as the individual resolution strategy. It basically consists of six steps:

- (1) **Step 1: definition of transfer purpose:** firstly, the resolution authority defines the purpose of the transfer (e.g. balance sheet relief by transferring problematic assets to an asset management company) against the background of the chosen resolution strategy. The purpose of the transfer is generally the benchmark for all subsequent discretionary decisions in the selection and adjustment of the transfer items and is to be derived directly from the resolution objectives.
- (2) **Step 2: definition of selection criteria:** the resolution authority must define initial selection criteria for the transfer items, taking into account the purpose of the transfer and based on data and analyses of the resolution entity. In other words, it is determined which properties are generally required in order to qualify as a transfer item or which transfer items best fulfil the transfer purpose (e.g. non-performing property loans for an asset management company).
- (3) **Step 3: application of protective provisions:** the resolution authority then decides which links to other objects of the transfer items identified in the previous step must or should be retained in a transfer, i.e. which assets, liabilities and/or rights can or should only be transferred together. This means that the resolution authority decides whether links must be protected in principle (statutory protection provisions), whether links that must be protected in principle can be separated by way of exception (discretionary exceptions), whether it utilises options provided by law to protect further links (discretionary protection provisions) and whether it is expedient to protect further links that go beyond this.
- (4) **Step 4: determination of transfer units:** the resolution entity then derives bundles of linked transfer items (hereinafter "transfer units") on the basis of the previous specifications. The transfer unit is the smallest possible group of transfer items (assets, liabilities and rights) that can only be transferred together or remain together in the resolution entity due to the links to be protected. Next, the transfer units that are generally eligible for transfer are determined, as they contain at least one asset that fulfils the selection criteria of the second step. This results in the so-called maximum transfer perimeter.
- (5) **Step 5: definition of transfer filter:** the resolution authority then decides on transfer filters. Transfer filters determine which properties mean that transfer items and associated transfer units are not transferred, even though they generally contain suitable transfer items according to the selection criteria. A transfer unit may be excluded from the transfer, for example, because the transfer unit in question contains transfer items whose transfer is to be avoided (e.g. assets under third country law) in addition to a generally suitable transfer items. The result is the initial transfer perimeter.
- (6) **Step 6: iterative adjustment of the transfer perimeter:** the resolution authority must then determine which hard and soft ancillary conditions the transfer perimeter must fulfil overall. Hard constraints must be met. In the event of failure to comply, the selection criteria (step 2) and/or the links to be protected (step 3) and/or the transfer filters (step 5) must be adjusted during iterative optimisation. On the other hand, failure to fulfil the soft ancillary conditions does not necessarily mean that the resolution strategy will fail. If certain soft ancillary conditions are not initially met, the resolution authority decides at its discretion whether to adjust the initial transfer perimeter. The result after iterative optimisation is the final transfer perimeter.

It is important to note that the steps described are to be regarded as iterative and that several iterations will probably be necessary to determine the final transfer perimeter that best fulfils the transfer purpose and thus the achievement of the resolution objectives. The resolution entity provides the resolution au-

thority with the information (e.g. analyses, evaluations and specific proposals in accordance with the requirements of the resolution authority) that the resolution authority requires as part of the respective process step to determine the transfer perimeter.

6.3. Step 1: determination of transfer purpose

6.3.1. The resolution authority first defines the purpose of the transfer. The transfer purpose is derived directly from the resolution objectives to be fulfilled, which in turn are reflected in the selected resolution strategy. The transfer purpose therefore determines the design and the degree of freedom of the selection process to be carried out to determine the transfer perimeter and is the benchmark for all subsequent discretionary decisions.

6.3.2. The transfer purpose is closely linked to the question of which resolution strategy (i.e. the combination of resolution tools and powers) is used to achieve the resolution objectives. The structural resolution tools as asset deal have a number of objectives and legal requirements, so that the basic transfer purpose varies. For example, while the bridge institution aims to maintain the continuation of critical functions, an asset management company can be used to maximise the proceeds from the realisation of certain transfer items.

6.4. Step 2: definition of selection criteria

6.4.1. After determining the purpose of the transfer, the resolution authority must in the next step use its discretion to determine the selection criteria that the transfer items must fulfil in order to be suitable in principle for fulfilling the purpose of the transfer. This means that the resolution authority defines selection criteria and determines which characteristics (i) classes of items and/or (ii) individual items must generally fulfil in order to achieve the purpose of the transfer. If the resolution strategy stipulates that the majority of the items in the resolution entity are to be transferred, selection criteria for the retention of items in the resolution entity can also be defined instead.

6.4.2. Based on the coordinated selection criteria, the resolution entity determines all transfer items that are derived directly from the selection criteria, without taking into account possible links and interconnectedness with other assets, liabilities and/or legal relationships of the resolution group or any exclusion criteria and ancillary conditions to be observed (hereinafter Core Transfer Perimeter¹⁴).

6.5. Step 3: application of protective provisions

6.5.1. The resolution authority then decides which links between the previously identified transfer items and other items are to be retained during the transfer. This means that the resolution authority decides whether links must be protected in principle (statutory protection provisions), whether links that must be protected in principle can be separated as an exception (discretionary exceptions), whether it utilises the options provided by law to protect further links (discretionary statutory protection provisions) and whether it is appropriate to protect further links that go beyond this. For this purpose, the resolution authority requires a large amount of relevant information and analyses from the resolution entity.

6.5.2. Irrespective of the crisis situation, the statutory protection provisions pursuant to section 110 of the SAG in conjunction with Commission Delegated Regulation (EU) 2017/867 must be observed. The extent to which (i) discretionary exemptions from the statutory protective provisions, (ii) discretionary statutory protective provisions pursuant to section 110 of the SAG in conjunction with the Commission

¹⁴ For term, see EBA/GL/2022/11, margin no. 13.

Delegated Regulation (EU) 2017/867 and (iii) the protection of further links not protected pursuant to section 110 of the SAG in conjunction with the Commission Delegated Regulation (EU) 2017/867 are to be applied is a discretionary decision with regard to the fulfilment of the resolution objectives and the transfer purpose. In doing so, the resolution authority must exercise its discretionary powers with regard to the determination of the transfer items pursuant to Article 24(2)(a), Article 25(2)(a) and Article 26(2)(a) of the SRMR and section 107 (1) of the SAG. The table below provides an overview of the categories of protection provisions and any links that require protection:

Table 3: Overview of links and protective provisions

No.	Object	Examples	Explanatory notes
1	Statutory protective provisions	<ul style="list-style-type: none"> • Security agreement • Certain set-off and netting agreements 	Protection must be principally adhered to
2	Discretionary exceptions to statutory protection provisions	<ul style="list-style-type: none"> • Covered deposits 	Case-by-case decision of the resolution authority
3	Discretionary statutory protective provisions	<ul style="list-style-type: none"> • Set-off and netting agreements that are recognised by the supervisory authorities for the purpose of risk mitigation • Agreements protected in insolvency 	Case-by-case decision of the resolution authority
4	Other contractual relationships (outside of section 110 of the SAG in conjunction with the Commission Delegated Regulation (EU) 2017/867)	<ul style="list-style-type: none"> • Objects of the same contract 	Case-by-case decision of the resolution authority
5	Economic links	<ul style="list-style-type: none"> • Customer relationship • Borrower unit • Risk association 	Case-by-case decision of the resolution authority
6	Intra-group links	<ul style="list-style-type: none"> • Guarantees • Intra-group loans • Service relationships 	Case-by-case decision of the resolution authority

6.5.3. Statutory protective provisions: the links that must always be protected include, in particular

- security agreements, including securities financing transactions (section 110 (1) of the SAG in conjunction with Art. Article 2 of the Commission Delegated Regulation (EU) 2017/867);
- set-off and netting agreements (section 110 (3) nos. 2 and 3 of the SAG) if they fulfil the requirements of Article 4(1) or (2) or Article 3(1) or (2) of the Commission Delegated Regulation (EU) 2017/867;
- liabilities from securitisation transactions issued and certified receivables (section 110 (3) no. 4 of the SAG in conjunction with Article 6 of the Commission Delegated Regulation (EU) 2017/867); and
- covered bonds (section 110 (3) no. 5 of the SAG in conjunction with section 2 (3) no. 24 of the SAG).

6.5.4. Discretionary exceptions to statutory protective provisions: the legally binding protection of agreements, i.e. the contractual relationships under 6.5.3, can be suspended under certain conditions. In

specific cases, the SAG and the Commission Delegated Regulation (EU) 2017/867 provide for the possibility of restricting the protection stipulated in section 110 (1) and (3) of the SAG as part of a discretionary decision; in particular, the exemption rule of section 110 (2) of the SAG applies in connection with covered deposits.

6.5.5. Discretionary legal protection provisions: in certain cases, the resolution authority has discretion to extend the protection to certain contractual links. These include, for example, netting and set-off arrangements that are not already covered by Article 3(1) or (2) or Article 4(1) or (2) of the Commission Delegated Regulation (EU) 2017/867, but which are “recognised for risk mitigation purposes under the applicable prudential rules and the protection, in particular through non-separability, is a condition for that recognition” (Article 3(3) and Article 4(3) of the Commission Delegated Regulation (EU) 2017/867). Furthermore, the resolution authority may protect any type of agreed link that is also protected in normal insolvency proceedings against the temporary or indefinite severance, suspension or cancellation of the assets, rights and liabilities covered by it in accordance with Article 5(1) of the Commission Delegated Regulation (EU) 2017/867.

6.5.6. Other contractual relationships (outside of the SAG and Commission Delegated Regulation (EU) 2017/867): in order to fulfil the resolution objectives and the resulting transfer purpose, it may be necessary (e.g. for economic or operational reasons) to additionally protect contractual relationships that do not fall within the scope of the statutory or discretionary protection provisions. In particular, these could be links from the following contractual relationships:

- offsetting and netting agreements that do not fall under the provisions of section 110 of the SAG in conjunction with Articles 3 to 5 of the Commission Delegated Regulation (EU) 2017/867;
- loans granted, which are summarised under a joint agreement.

6.5.7. Economic links: likewise, economic links that are not necessarily based on a contractual agreement could also be protected by the resolution authority on a discretionary basis if this serves to fulfil the resolution objectives and the transfer purpose derived from them. The following economic links should be mentioned in particular:

- a. customer relations:** assets, liabilities and/or rights allocated to the same client;
- b. borrower unit:** assets, liabilities and/or rights that are allocated to the same borrower unit;
- c. risk association:** assets, liabilities and/or rights that are allocated to the same risk group;
- d. legal risks:** legal risks (in particular due to pending legal proceedings) that are directly paired with certain assets, liabilities or organisational/legal units (and may have been recognised as a provision).

6.6. Step 4: determination of the transfer units

6.6.1. Based on the prior determinations of the resolution authority, the resolution entity must subsequently derive the transfer units. The transfer unit is the smallest possible group of transfer items (assets, liabilities and/or legal relationships) that are only transferred together or remain together in the resolution entity due to the links to be protected. Consequently, each transfer item within a transfer unit is connected to at least one other transfer item of the transfer unit in such a way that a separation of the transfer items would lead to a violation of at least one selected protection provision. Conversely, this means that no transfer unit contains transfer items that are connected to another transfer items of another transfer unit by a protected link. As a result, the transfer units can be viewed and transferred independently of each other without the risk of violating previously protected links. In its smallest form, a

transfer unit consists of a single transfer item. However, a transfer unit can also contain several transfer items.

6.6.2. To determine the transfer units, all links to be protected in relation to all relevant assets, liabilities and rights of the resolution entity must be recorded on the data side in the systems of the resolution group. The resolution entity must also maintain a calculation logic. However, it is generally not necessary to determine the transfer units for all items (assets, liabilities and rights), so that the information requirements and data processing requirements can be reduced. The resolution entity only has to determine the transfer units for those items that are part of the core transfer perimeter. The result is the maximum transfer perimeter, i.e. the sum of all transfer units that contain at least one item that fulfils the selection criteria.

6.7. Step 5: transfer filter definition

6.7.1. The resolution authority then decides on transfer filters. Transfer filters determine which properties mean that transfer items and associated transfer units are not transferred, even though they generally contain suitable transfer items according to the selection criteria. The exclusion of a transfer unit from the transfer can be carried out, for example, because the transfer unit in question contains transfer items whose transfer is to be avoided in addition to a fundamentally suitable transfer items. The result is the initial transfer perimeter.

6.7.2. The transfer filters consist of exclusion criteria. The exclusion criteria are generally dependent on the purpose of the transfer and the respective resolution tool as well as the specific crisis situation. One example is that, in the case of a transfer to an asset management company, the asset management company should be prevented from requiring a banking licence and, accordingly, the transfer of transfer items whose objects of transfer require a licence (e.g. guarantees or deposits) should be excluded.

6.7.3. For the application of the exclusion criteria, the resolution entity must hold information relevant to the decision and take into account its possible processing in the calculation logic. These can be data points relating to the resolution strategy as well as financial and operational continuity. Like the transfer filters themselves, the data requirements needed for the filters are case- and tool-specific and should already be identified as part of the resolution planning.

6.8. Step 6: iterative adjustment of transfer perimeter

6.8.1. Based on this, the resolution authority determines which hard and soft ancillary conditions the transfer perimeter must fulfil. While hard constraints must be fulfilled, the fulfilment of soft constraints is desirable but not absolutely necessary. The result after iterative optimisation is the final transfer perimeter.

6.8.2. Some **examples of possible secondary conditions** are listed below:

- **financial continuity** (and compliance with regulatory requirements) of the acquiring legal entity can be ensured over the planning period (e.g. sufficient liquidity given by transfer perimeter for the transfer to an asset management company);
- **operational continuity** with regard to the assets and business activities transferred to the acquiring legal entity can be ensured (for example, with the help of service level agreements and a technical separation of IT systems);

- **exit strategy for a bridge institution** (e.g. maintaining the critical function(s) until the divestiture of the shares in the bridge institution within two years or liquidation);
- the **value of the transferred liabilities** does not exceed the value of the transferred assets and legal relationships if the transfer is made to a bridge institution;
- **the purpose of the asset management company** is compatible with the requirements of section 132 of the SAG (taking into account the EBA requirements);¹⁵
- **profitability**: e.g. utilisation of economies of scale by focusing on certain classes of assets;
- **profitable business model**: e.g. addition of further business activities beyond critical functions to increase the profitability of the bridge institution;
- **optimisation of the consideration**: e.g. maximising the sales proceeds on divestiture by selecting an attractive transfer perimeter;
- **low risk profile**: e.g. reduction of transfer items with a high risk profile in the transfer perimeter in order to reduce the liquidity requirements of the bridge institution; and
- **minimization of implementation risks**: e.g. reduction of the categories of non-performing loans to a few categories in order to reduce the IT systems and applications required as well as personnel requirements for an asset management company.

6.8.3. Within the same resolution strategy, the transfer perimeter can be adjusted in three ways (which can also be combined):

- expand or narrow down the selection criteria (step 2);
- extension or limitation of links to be protected (step 3);
- expand or narrow down the transfer filters (step 5).

6.8.4. The adjustment must be repeated until all hard constraints are met, at least taking into account the resolution objectives and the purpose of the transfer (**iterative optimisation process**).

6.8.5. After the resolution entity has determined the final transfer portfolio, it must notify the resolution authority of the individual transfer items so that they can be taken into account in the **resolution order**. The resolution order must clearly indicate to all parties concerned whether and in what form they are affected by the transfer.

¹⁵ See EBA/GL/2015/05.

7. Resolution tools as asset deal

7.1. General preparations by the resolution entity

7.1.1. Technical/organisational structure: in order for the institution or group to be considered resolvable, it must be ensured that processes, systems and technical and human resources for implementing the structural resolution tools (asset deal) are available at all times in the event of a crisis. In this regard, the resolution entity must extend the "*resolution-related governance*" (principle 1.2 of the Minimum requirements for resolvability) to include aspects specific to the resolution tool in planning and in the event of a crisis.

7.1.2. External interconnectedness analysis: in order for the institution or group to be considered resolvable, an external interconnectedness analysis for the resolution strategy to be implemented in accordance with 5.1.2. must be carried out during resolution planning and updated on an ongoing basis.

7.1.3. Internal interconnectedness analysis: in order for the institution or group to be considered resolvable, an internal interconnectedness analysis for the resolution strategy to be implemented must also be carried out during resolution planning and updated on an ongoing basis. In particular, the following challenges must be analysed and corresponding solution concepts developed and established for the period before, during and after the resolution. Among other things, (i) interconnectedness within the resolution entity and (ii) interconnectedness between the resolution entity and other entities in the resolution group are analysed to the extent that they are relevant for the successful implementation of the planned resolution strategy. In particular, interconnectedness between the core business areas and critical functions must be taken into account:

- economic interconnectedness (e.g. process chains for products and joint sales channels);
- operational interconnectedness (e.g. services, systems and applications and personnel);
- financial interconnectedness (e.g. guarantees granted and received, liabilities, collateral, loans, liquidity management);
- corporate, commercial and tax law interconnectedness (e.g. profit transfer and/or control agreements, letters of comfort, tax groups, commercial and prudential scope of consolidation, group accounting).

7.1.4. Separation analysis: in order for the institution or group to be considered resolvable, a transfer perimeter must be determined in the resolution planning using the separation analysis (principle 7.2 of MaResolvability) in accordance with Chapter 6 based on the information available on the resolution planning reference date, whereby simplifications in resolution planning are possible in consultation with the resolution authority. The effects of future scenarios on the transfer perimeter must also be analysed. When determining the transfer perimeter, hard and soft constraints must be taken into account in addition to the external and internal interconnectedness analysis. This includes, in particular, concepts for financial and operational continuity, which in turn depend on the transfer perimeter, whereby it should be noted that the design of the transfer perimeter can also have an influence on financial and operational continuity.

Notwithstanding the possible simplifications in resolution planning, the resolution entity must establish a technical and organisational infrastructure that enables the transfer perimeter to be adjusted at short notice in the event of a crisis, taking into account a complete separation analysis (e.g. data on the protection provisions, selection criteria, transfer filters and the technical infrastructure for determining the

transfer units) and provides the resolution authority with all information relevant to decision-making for the implementation of the asset deal.

7.1.5. Financial continuity: in order for the institution or group to be considered resolvable, it must be ensured that financial continuity is always maintained in the event of resolution during and after the implementation of the structural resolution tools (asset deal). For this purpose, the resolution entity must extend principles 3.1 to 3.3 of the Minimum requirements for resolvability within the scope of resolution planning to include aspects specific to the resolution tool in planning and in the event of a crisis.

In particular, (i) the solution concepts developed for the above interconnectedness and (ii) the transfer perimeter must be integrated into the **overall concept to ensure financial continuity** and its implementation must be prepared by the system in the event of resolution. In the subsections 7.2., 7.3. and 7.4., the subjects of investigation specific to resolution tools are presented. The concept must be designed in such a way that it can be specified in greater detail and promptly supplemented in the event of a specific crisis. In addition to the requirements of the MaBail-in circular for implementing the write-down and conversion (e.g. preparation of a new balance sheet, income statement, RWA and own funds calculation), it must also be ensured for each structural resolution strategy (asset deal) that after the resolution, among other things

- the regulatory and economic capital and liquidity requirements for the seamless continuation and maintenance of the transferred business can be determined at short notice and solutions can be implemented with the acquiring legal entity; and
- the fulfilment of all financial obligations on the part of the acquiring legal entity can be guaranteed.

7.1.6. Operational continuity: in order for the institution or group to be considered resolvable, it must be ensured that operational continuity is maintained at all times during and after the implementation of the structural resolution tools (asset deal). For this purpose, the resolution entity must extend principles 4.1 to 4.6 of the Minimum requirements for resolvability within the scope of resolution planning to include aspects specific to the resolution tool in planning and in the event of a crisis.

In particular, (i) the solution concepts developed for the above interconnectedness and (ii) the transfer perimeter must be integrated into the **overall concept to ensure operational continuity** and its implementation must be prepared on the system side in the event of resolution. In the subsections 7.2., 7.3. and 7.4., the subjects of investigation specific to resolution tools are presented. The concept must be designed in such a way that it can be specified in greater detail and promptly supplemented in the event of a specific crisis.

7.1.7. Data and information provision: in order for the institution or group to be considered resolvable, it must be ensured that appropriate management information systems and an appropriate technical and organisational infrastructure are in place to successfully implement the resolution strategy in the event of a crisis. For this purpose, the resolution entity must extend principles 5.1 to 5.3 of MaResolvability within the scope of resolution planning to include aspects specific to the resolution tool in planning and in the event of a crisis.

In particular, at the request of the resolution authorities, (i) the transfer perimeter must be determined and (ii) granular data regarding the components of the transfer perimeter must be provided within 24 hours,¹⁶ so that the resolution authority can make informed decisions regarding segregation and present the transfer items in the resolution order.¹⁷ The required information includes, among other things

¹⁶ The period between the cut-off date of the information and the resolution date should be as short as possible.

¹⁷ In addition, the management information systems must be sufficiently flexible to allow adjustments to the transferred transfer perimeter after resolution (retransfers).

- itemised list of all transfer items at the level of individual assets, liabilities and rights;
- data on the choice, selection and assessment of the transfer perimeter by the resolution authority, especially:
 - assignment of critical functions and core business areas to the transfer items;
 - classification of the transfer items (e.g. type of asset/liability, information on the counterparty and type of collateral);
 - asset quality and risk indicators (e.g. categorisation as (non-)performing loans, risk-weighted assets, collateral for loans extended);
 - legal categorisation (e.g. applicable law and recognition of transfer powers pursuant to section 107 of the SAG and any contractual impediments to transferability);
 - visualisation of the existing links between the transfer items.

A concrete data model to support the separation analysis will be published in the following version of this circular. By this date, the resolution authority will communicate specific requirements to the resolution entities concerned during the resolution planning process. It should also be noted that information must be provided for the valuation in accordance with MaValuation and for the implementation of WDCCI/bail-in in accordance with MaBail-in.

7.1.8. Crisis communication: in order for the institution or group to be considered resolvable, it must be ensured that appropriate communication takes place during and after the implementation of the structural resolution tools (asset deal). For this purpose, the resolution entity must expand principles 6.1 and 6.2 of the Minimum requirements for resolvability within the scope of resolution planning to include aspects specific to the resolution tool in planning and in the event of a crisis. In particular, the disclosure obligations in accordance with MAR must be addressed.¹⁸ Other disclosure obligations in third countries may also have to be taken into account.

7.1.9. Transfer playbooks: in order for the institution or group to be considered resolvable, it must be ensured that the above-mentioned aspects and the special preparations (see sub-chapters 7.2., 7.3 and 7.4.) are documented in detail in a transfer playbook. The exact structure of the transfer playbook depends on the respective resolution tool; the following sub-chapters contain suggested structures.

7.2. Special preparations for the sale of business (asset deal)

7.2.1. Overview: the preparations of the resolution entity in planning the resolution tool of the sale of business (asset deal) focus in particular on (i) the separation analysis, (ii) the marketability analysis and (iii) the operationalisation of the marketing process in the event of a crisis. It should also be noted that the requirements for carrying out the resolution valuation in accordance with MaValuation and the WDCCI power in accordance with MaBail-in must always be fulfilled.

7.2.2. Timetable: the duration of the **marketing process** is generally selected by the resolution authority depending on the specific crisis situation and the size and complexity of the transfer item. In order to enable efficient and effective resolution planning, the resolution authority bases the preparations of the resolution entities on two exemplary scenarios, which the resolution entity uses as a guide when

¹⁸ See also BaFin's "Issuer Guideline", as amended.

operationalising the planning of the sale of business tool in the planning. The details must be agreed with the resolution authority as part of the resolution planning.

- (1) **Longer planning horizon:** this timetable covers a total period of three weeks and allows potential acquirers and the valuer approximately 10 days for the due diligence and valuation, respectively.
- (2) **Shortened planning horizon:** this timetable covers a total period of four days (e.g. Thursday to Sunday) and allows the potential acquirers and the valuer approximately 24 hours for the due diligence and valuation respectively.

7.2.3. Separation analysis: in order for the institution or group to be considered resolvable, the following analyses in particular must be carried out in addition to the separation analysis in accordance with subsection 7.1.4, which in turn are included as hard and soft constraints in the iterative determination of the final transfer perimeter:

- a. **marketability analysis:** the marketability of the transfer perimeter must be analysed. In particular, the analysis should take into account the strategic orientation, size and complexity, business activities and business model, customer relationships, market concentration, market development opportunities, distribution channels and geographical breakdown in relation to the existence of potentially suitable acquirers.
- b. **approach concerning potential acquirers:** lists must be prepared regarding the universe of potential acquirers from the perspective of the institution on the basis of the marketability analysis. The analysis should take into account the following aspects, among others: financial performance (distributable funds, ability to raise capital, access to the capital market), transaction experience, affiliation with a group, competition law aspects, success of a qualifying holding procedure, need for authorisations and approvals in third countries, strategic considerations.

7.2.4. Preparations: in order for the institution or group to be considered resolvable, the following specific preparations must be carried out in addition to the general preparations described in subsection 7.1.:

- a. **information memorandum:** an information memorandum must be prepared and made available to potential buyers in the virtual data room as part of the sales process in the event of a crisis. In the context of a crisis, it must be updated or supplemented at short notice. The information memorandum contains in a clear form all information that is material from the perspective of a potential acquirer (in particular information that is required to clearly identify the transfer items and a brief description of the object of the sale, e.g. business units, core products and customer focus, regional breakdown, market position and material legal entities) and comprehensively describes the resolution group and the background to the crisis. The exact content of the information memorandum must be agreed with the resolution authority as part of the resolution planning.
- b. **operation of VDR:** as part of the realisation of the marketing process, the resolution entity is responsible in particular for operating the VDR for potential purchasers and the valuer in the event of a crisis. This also includes the managerial and content-related assumption of the structured question and answer process within the VDR for the potential acquirers and the valuer separately in accordance with the MaValuation.
- c. **process plan:** on the basis of the two exemplary timetables and in close coordination with the resolution authority, the resolution entity must develop two process plans showing how the res-

olution entity will support the implementation of the sale of business tool (asset deal). In particular, it includes all relevant milestones, activities, interconnections, time specifications, responsibilities and external dependencies.

- d. **retransfers:** development of a concept for how any necessary retransfers can be technically operationalised after resolution.

7.2.5. Transfer playbook: in order for the institution or group to be considered resolvable, a transfer playbook must be drawn up that includes the general and specific preparations for the implementation of the sale of business tool (asset deal). It should be noted that the instrument of the sale of business can only be one resolution tool in a preferred or alternative resolution strategy.¹⁹ The resolution entity must first determine which aspects are to be considered in which manuals, taking into account the overall resolution tools to be prepared, and create a corresponding overview of the manuals.²⁰

The following table shows the proposed structure of the transfer playbook in the event of a sale of business (asset deal), which can be modified and expanded in consultation with the resolution authority.

Table 4: Index transfer playbook sale of business (asset deal)

No.	Description
1. Introduction	
	<ul style="list-style-type: none"> Purpose, objective and structure of the document Brief description of the key elements of the resolution strategy (all envisaged instruments) Key challenges of operationalising the resolution strategy
2. Description of the transfer	
	Purpose of the transfer and the resolution strategy ²¹
2.1.	<ul style="list-style-type: none"> Resolution objectives at risk, e.g. ensuring the continuity of critical functions Brief description of the transfer, e.g. sale of shares after change of legal form, consideration, recapitalisation e.g. transfer of an asset surplus in combination with bail-in
2.2.	Marketability analysis in accordance with 7.2.3. a.
	Approach concerning potential acquirers in accordance with 7.2.3. b.
2.3.	<ul style="list-style-type: none"> Analysis of potential acquirers and justification List of potential acquirers in the event of a crisis
2.4.	Operation of virtual data room in accordance with 7.2.4 b. (if applicable, reference to the manual for the provision of information in accordance with the MaValuation)
3. External interconnectedness analysis in accordance with part 7.1.2.	
	Interconnectedness and relationships between the resolution group and the rest of the group, if relevant
3.1.	<ul style="list-style-type: none"> Presentations and analysis of the material interconnectedness in the specified categories and the challenges in implementing the resolution strategy Development of solution concepts with regard to possible challenges of the material interconnectedness in the implementation of the resolution strategy
	Interconnectedness and relationships between the resolution group and the network, if relevant
3.2.	<ul style="list-style-type: none"> Presentations and analysis of the material interconnectedness in the specified categories and the challenges in implementing the resolution strategy Development of solution concepts with regard to possible challenges of the material interconnectedness in the implementation of the resolution strategy

¹⁹ In addition, a resolution valuation is always a prerequisite for the application of a resolution tool.

²⁰ For example, in certain cases it may be appropriate (1) to include governance and communication in separate manuals, (2) to include the operation of the data room (also for potential acquirers) in full in the manual on the provision of information (in accordance with MaValuation) and/or (3) to present creditor participation in the case if a sale of the entity in a bail-in manual.

²¹ Contents of this part are to be documented based on the requirements of the resolution authority.

No.	Description
3.3.	<p>Interconnectedness and relationships between the resolution group and other third parties, if relevant</p> <ul style="list-style-type: none"> • Presentations and analysis of the material interconnectedness in the specified categories and the challenges in implementing the resolution strategy • Development of solution concepts with regard to possible challenges of the material interconnectedness in the implementation of the resolution strategy
4. Internal interconnectedness analysis in accordance with part 7.1.3.	
4.1.	<p>Interconnectedness and relationships within the resolution entity</p> <ul style="list-style-type: none"> • Presentations and analysis of the material interconnectedness in the specified categories and the challenges in implementing the resolution strategy • Development of solution concepts with regard to possible challenges of the material interconnectedness in the implementation of the resolution strategy
4.2.	<p>Interconnectedness and relationships between the resolution entity and other entities in the resolution group</p> <ul style="list-style-type: none"> • Presentations and analysis of the material interconnectedness in the specified categories and the challenges in implementing the resolution strategy • Development of solution concepts with regard to possible challenges of the material interconnectedness in the implementation of the resolution strategy
5. Determination of the transfer perimeter²²	
5.1.	<p>Purpose of the transfer and selection criteria</p> <ul style="list-style-type: none"> • Purpose of the transfer • Presentation of the selection criteria for the transfer items (or the criteria for non-selection), which were determined in discussion with the resolution authority • Description of the transfer items • Justification of the selection criteria against the background of the resolution objectives
5.2.	<p>Protective provisions</p> <ul style="list-style-type: none"> • Identification and presentation (including justification) of which links fall under the applicable safeguards or – in consultation with the resolution authority – the applicable protective provisions • Assessment of the significance of the selected protective provisions for the resolution strategy and the impact on the transfer perimeter (e.g. impact on the NPL ratio of the transfer perimeter) • Description of possible effects that arise because certain links are not protected (e.g. possible effects on customer relationships) • Description of how the resolution entity determines the corresponding transfer units from the protective provisions
5.3.	<p>Exclusion criteria / transfer filter</p> <ul style="list-style-type: none"> • Presentation of any exclusion criteria to be taken into account (transfer filter) and justification • Description/quantification of the transfer items affected by exclusion criteria
5.4.	<p>Hard constraints</p> <ul style="list-style-type: none"> • Description of the hard constraints with regard to the transfer perimeter • Analysis of compliance with the hard constraints • Quantification and description of the impact of necessary adjustments on the transfer perimeter
5.5.	<p>Soft constraints</p> <ul style="list-style-type: none"> • Description of the soft constraints • Analysis of the fulfilment of the soft constraints and decision (including justification) on possible resulting adjustments to the transfer perimeter • Quantification and description of the effects of adjustments made on the transfer perimeter
5.6.	<p>Transfer perimeter</p> <ul style="list-style-type: none"> • Description of the characteristics of the transfer perimeter in accordance with the planning date • Description of the items remaining in the resolution entity • Description of the process and method with which the resolution entity calculates the transfer perimeter, can update it at short notice and adapt it to changing circumstances • Scenario analyses regarding necessary adjustments to the transfer perimeter, in particular due to changed economic conditions and the implementation of restructuring measures
6. Operational aspects of implementation	

²² Based on the typical procedure model presented in Chapter 6; deviations are possible in consultation with the resolution authority.

No.	Description
	Management information systems and data
6.1.	<ul style="list-style-type: none"> • Presentation of the technical and organisational resources, how the special data requirements and information relating to the implementation of an asset deal can be fulfilled • Presentation of the technical and organisational resources, how the special data requirements and information relating to the valuation and bail-in (if applicable in additional manuals) can be fulfilled
6.2.	<p>Ensuring financial continuity in accordance with 7.1.5 (reference to separate manual if necessary)</p> <ul style="list-style-type: none"> • Presentation of an overall solution concept for financial continuity in respect of transfer perimeters • Reference to any outsourced aspects, e.g. FMI contingency plans, bail-in manuals
6.3.	<p>Ensuring operational continuity in accordance with 7.1.6 (reference to separate manual if necessary)</p> <ul style="list-style-type: none"> • Presentation of an overall solution concept for operational continuity in respect of transfer perimeters • Reference to any outsourced aspects, e.g. FMI contingency plans, bail-in manuals
6.4	Where applicable, ensuring the implementation of WDCCI/bail-in (reference to bail-in manual in accordance with MaBail-in, if applicable)
7. Retransfers	
	Operationalisation of retransfers; presentation of a concept for how possible retransfers can be operationalised following resolution
8. Crisis communication	
8.1.	Communication plan in accordance with Principle 6.1 (reference to own communication manual if applicable)
8.2.	Governance for communication in accordance with principle 6.2 (reference to own communication manual if applicable)
9. Governance and process plan in the event of a crisis	
9.1.	Governance for implementing the instrument in accordance with 5.1.1 (reference to own governance manual if applicable)
9.2.	Process plan (combined with process plans for other resolution tools, e.g. bail-in, if applicable)
10. Open points and challenges	
10.1.	Open points/challenges/solution concepts regarding the external interconnectedness analysis
10.2.	Open points/challenges/solution concepts regarding the internal interconnectedness analysis
10.3.	Open points/challenges/solution concepts regarding the determination of the transfer perimeter
10.4.	Open points/challenges/solution concepts regarding management information systems and data
10.5.	Open points/challenges/solution concepts regarding financial continuity
10.6.	Open points/challenges/solution concepts relating to operational continuity
10.7.	Other open points/challenges/solution concepts
11. Annexes	
11.1.	Contact list
11.2.	Information memorandum in accordance with 7.2.4. a.
11.3.	Detailed process plan for both schedules
11.4.	Detailed list of transfer items

7.3. Special preparations for the bridge institution (asset deal)

7.3.1. Overview: the preparations of the resolution entity in planning the resolution tool of the bridge institution (asset deal) focus in particular on (i) the separation analysis and (ii) ensuring financial and operational continuity after the resolution. It should also be noted that the requirements for carrying out a resolution valuation in accordance with MaValuation and the WDCCI power in accordance with MaBail-in must always be fulfilled.

7.3.2. Timetable: the time frame for the implementation of the resolution measure is selected by the resolution authority depending on the specific crisis situation and the size and complexity of the resolution group in resolution. In order to enable efficient resolution planning, the resolution authority sets a total time frame of two weeks as the basis for the preparations in the context of resolution planning. This takes into account the fact that a large part of the necessary measures can already be prepared in advance (e.g. indicative determination of the transfer perimeter, systemic and operational separation, concept for operational and financial continuity, etc.).

7.3.3. Separation analysis: in order for the institution or group to be considered resolvable, the following analyses in particular must be carried out as part of the separation analysis in accordance with subsection 7.1.4, which in turn are included as secondary conditions (e.g. on financial and operational continuity) in the iterative determination of the final transfer perimeter:

- a. **Profitability:** analysis of the transfer perimeter with regard to the following aspects and preparation of a concept for implementation during the resolution. The concepts must be designed in such a way that they can be specified in greater detail and promptly supplemented in the event of a specific crisis:
 - definition of the **business model** (e.g. core business areas, products, organisation (e.g. structure, complexity, processes), key subsidiaries (domestic and foreign) and geographical distribution (e.g. national/international, focus on specific countries);
 - assessment of the **viability/sustainability of the business model** (e.g. analysis of the business environment (e.g. markets, competitors), quantitative/qualitative business model analysis, assessment of the viability of the business model (e.g. risk profiles, future viability of products, earnings power, refinancing capability), assessment of the sustainability of the strategy (e.g. further growth opportunities).

- b. **Regulatory requirements:** analysis of the transfer perimeter with regard to the following aspects and preparation of a concept for implementation during the resolution. The concepts must be designed in such a way that they can be specified in greater detail and promptly supplemented in the event of a specific crisis:
 - creation of an inventory **of business activities requiring authorisation** in Germany, in other EEA countries, in third countries (agreements with third countries within the meaning of section 167 of the SAG);
 - assessment of **capital requirements** in particular selection of risk measurement method and RWA estimate for the bridge institution, calculation of resulting capital requirements, indicative capital planning;
 - assessment of **liquidity requirements** in particular calculation of the resulting liquidity requirements, indicative liquidity planning;
 - assessment **reporting requirements** in particular preparation of an inventory of expected notifications and identification/elimination of possible impediments;

- description of the conditions for maintaining access to **investor compensation schemes** and **deposit guarantee schemes** and removal of impediments in the event of resolution.
- c. Financial continuity:** analysis of the transfer perimeter with regard to the following aspects and preparation of a concept for implementation during the resolution. The concepts must be designed in such a way that they can be specified in greater detail and promptly supplemented in the event of a specific crisis:
- development of a concept of the **initial capital requirements** taking into account the supervisory requirements and economic necessities and, if envisaged, the WDCCI/bail-in effect;
 - development of a concept for **initial liquidity resources** taking into account the supervisory requirements and economic necessities, analysing the matching maturities and, if necessary, proposing an order to extend the maturity of certain liabilities in the resolution order;
 - development of **refinancing strategy** in particular content and time analysis as well as quantification of necessary refinancing measures after the resolution, development of a concept for the independent financing of the bridge institution (in particular presentation of the refinancing channels), analysis of required access to money and capital markets (including necessary licences and memberships);
 - development of a **hedging concept** to hedge interest rate and currency risks, in particular identification of the relevant hedging tools (based on the bank's existing hedging strategy), identification of the necessary access to financial market infrastructures, preparation of an approach for ongoing risk management and hedging;
 - preparation of a **rating concept**, in particular estimation of the rating requirements after resolution, preparation of the necessary rating processes (in particular identification of the required information and application processes), rating assessment against the background of the transfer perimeter and the planned capitalisation as well as preparation of a concept for the updating and implementation once in resolution;
 - development of an **accounting concept** in particular, analysis and verification of accounting standards and the scope of consolidation under commercial law, analysis of the accounting consequences of the transfer (e.g. disclosure of hidden reserves and liabilities, options for transfer values, necessity of closing and partial balance sheets), preparation of a concept for posting the transfer, for commissioning an audit of a capital increase through contributions in kind, for preparing and auditing a partial balance sheet ("Teilbilanz") in resolution.
 - development of a **tax concept** in particular, analysis and quantification of the tax implications of the transfer (income tax, sales tax, real estate transfer tax, tax groups, foreign-based permanent establishments, etc.), presentation of planned tax structuring measures and exercise of tax options in the event of transfer, presentation of the effects of the resolution action.
- d. Operational continuity:** analysis of the transfer perimeter with regard to the following aspects and preparation of a concept for implementation during the resolution. The concepts must be designed in such a way that they can be specified in greater detail and promptly supplemented in the event of a specific crisis:

- development of an approach to the **operational and organisational structure** in particular creation and documentation of the target operating model for transfer perimeter in compliance with supervisory requirements (e.g. KWG, MaRisk), creation of requirement profiles for each department to fill vacant positions and creation of a concept for updating and implementing this in resolution;
 - development of a concept for **management** and **servicing** in particular, identification and analysis of existing contractual relationships and new relationships between the transfer perimeter and both the legacy institution and a third party (based on the internal and external interconnectedness analysis), elimination of transfer obstacles (e.g. lack of transferability, third country law), adjustment of old and creation of new service agreements, consideration of supervisory requirements to be observed for the outsourcing of services (e.g. from MaRisk), ensuring the multi-client capability of the relevant IT systems and applications;
 - development of a **personnel concept** in particular identification of the decision-makers and specialists for each business unit, estimation of the employee capacity required for proper business operations for each business area, identification of the types of contracts, collective agreements, pension obligations and existing legal risks/lawsuits with a labour law background that exist in the entity, preparation of a list of possible incentive and retention measures to avoid redundancies, development of a communication and information concept for employees and identification of the persons primarily responsible for communication, identification of the contact persons in Human Resources and the contact persons for clarifying technical issues, decision on how to deal with pension obligations, contact persons to clarify technical issues, decision on how to deal with pension obligations.
- e. Marketing strategy:** analysis of the marketability of the bridge institution or its assets, liabilities and legal relationships (transfer perimeter), in particular an explanation of how the marketing or liquidation of the bridge institution could be achieved within the meaning of section 129 of the SAG. Among other things, the characteristics of the objects of sale (strategic orientation, size, etc.) and the universe of potential buyers must be taken into account.²³

7.3.4. Preparations: in order for the institution or group to be considered resolvable, the following specific preparations must be carried out in addition to the general preparations described in subsection 7.1:

- a. creation of a schedule:** based on the exemplary timetable and in close coordination with the resolution authority, the resolution entity must develop a process plan that shows how the resolution entity will support the implementation of the bridge institution tool (asset deal). In particular, it includes all relevant milestones, activities, interconnections, time specifications, responsibilities and external dependencies.
- b. re-transfers:** development of a concept for how any necessary retransfers can be technically operationalised after resolution.

7.3.5. Transfer playbook: in order for the institution or group to be considered resolvable, a transfer playbook must be drawn up that includes the general and specific preparations for the implementation of the bridge institution. It must be taken into account here that the bridge institution can only be one

²³ See also Parts 5.2.3. a and 5.2.3. b.

resolution tool in a preferred or alternative resolution strategy.²⁴ The resolution entity must first determine which aspects are to be considered in which manuals, taking into account the overall resolution tools to be prepared, and create a corresponding overview of the manuals.²⁵

The following table shows the proposed structure of the transfer playbook for the case of the bridge institution (asset deal), which can be modified and expanded in consultation with the resolution authority.

Table 5: Index transfer playbook bridge institution (asset deal)

No.	Description
1. Introduction	
	<ul style="list-style-type: none"> • Purpose, objective and structure of the document • Brief description of the key elements of the resolution strategy (all envisaged instruments) • Key challenges of operationalising the resolution strategy
2. Description of the transfer	
2.1.	Purpose of the transfer and the resolution strategy ²⁶ <ul style="list-style-type: none"> • Resolution objectives at risk, e.g. ensuring the continuity of critical functions • Brief description of the transfer, e.g. sale of shares after change of legal form, consideration, capitalisation e.g. transfer of an asset surplus • Target structure of the bridge institution
2.2.	Marketing strategy for the bridge institution <ul style="list-style-type: none"> • Profitability analysis of the bridge institution in accordance with 7.3.3. a • Explanation of how the marketing/liquidation of the bridge institution is to be achieved within the meaning of section 129 of the SAG • Feasibility analysis with regard to the marketing strategy in accordance with 7.3.3. e
3. External interconnectedness analysis in accordance with part 7.1.2.	
3.1.	Interconnectedness and relationships between the resolution group and the rest of the group, if relevant <ul style="list-style-type: none"> • Presentations and analysis of the material interconnectedness in the specified categories and the challenges in implementing the resolution strategy • Development of solution concepts with regard to possible challenges of the material interconnectedness in the implementation of the resolution strategy
3.2.	Interconnectedness and relationships between the resolution group and the network, if relevant <ul style="list-style-type: none"> • Presentations and analysis of the material interconnectedness in the specified categories and the challenges in implementing the resolution strategy • Development of solution concepts with regard to possible challenges of the material interconnectedness in the implementation of the resolution strategy
3.3.	Interconnectedness and relationships between the resolution group and other third parties, if relevant <ul style="list-style-type: none"> • Presentations and analysis of the material interconnectedness in the specified categories and the challenges in implementing the resolution strategy • Development of solution concepts with regard to possible challenges of the material interconnectedness in the implementation of the resolution strategy
4. Internal interconnectedness analysis in accordance with part 7.1.3.	
4.1.	Interconnectedness and relationships within the resolution entity <ul style="list-style-type: none"> • Presentations and analysis of the material interconnectedness in the specified categories and the challenges in implementing the resolution strategy • Development of solution concepts with regard to possible challenges of the material interconnectedness in the implementation of the resolution strategy

²⁴ In addition, a resolution valuation is always a prerequisite for the application of a resolution tool.

²⁵ For example, in certain cases it may be appropriate (1) to include governance and communication in separate manuals, (2) to include the operation of the data room (also for potential acquirers) in full in the manual on the provision of information (in accordance with MaValuation) and/or (3) to present creditor participation in the case if a sale of the entity in a bail-in manual.

²⁶ Contents of this part are to be documented based on the requirements of the resolution authority.

No.	Description
4.2.	<p>Interconnectedness and relationships between the resolution entity and other entities in the resolution group</p> <ul style="list-style-type: none"> • Presentations and analysis of the material interconnectedness in the specified categories and the challenges in implementing the resolution strategy • Development of solution concepts with regard to possible challenges of the material interconnectedness in the implementation of the resolution strategy
5. Determination of the transfer perimeter²⁷	
5.1.	<p>Purpose of the transfer and selection criteria</p> <ul style="list-style-type: none"> • Purpose of the transfer • Presentation of the selection criteria for the transfer items (or the criteria for non-selection), which were determined in discussion with the resolution authority • Description of the transfer items • Justification of the selection criteria against the background of the resolution objectives
5.2.	<p>Protective provisions</p> <ul style="list-style-type: none"> • Identification and presentation (including justification) of which links fall under the applicable safeguards or – in consultation with the resolution authority – the applicable protective provisions • Assessment of the significance of the selected protective provisions for the resolution strategy and the impact on the transfer perimeter (e.g. impact on the NPL ratio of the transfer perimeter) • Description of possible effects that arise because certain links are not protected (e.g. possible effects on customer relationships) • Description of how the resolution entity determines the corresponding transfer units from the protective provisions
5.3.	<p>Exclusion criteria</p> <ul style="list-style-type: none"> • Presentation of any exclusion criteria to be taken into account (transfer filter) and justification • Description/quantification of the transfer items affected by exclusion criteria
5.4.	<p>Hard constraints</p> <ul style="list-style-type: none"> • Description of the hard constraints with regard to the transfer perimeter • Analysis of compliance with the hard constraints • Quantification and description of the impact of necessary adjustments on the transfer perimeter
5.5.	<p>Soft constraints</p> <ul style="list-style-type: none"> • Description of the soft constraints • Analysis of the fulfilment of the soft constraints and decision (including justification) on possible resulting adjustments to the transfer perimeter • Quantification and description of the effects of adjustments made on the transfer perimeter
5.6.	<p>Transfer perimeter</p> <ul style="list-style-type: none"> • Description of the characteristics of the transfer perimeter based on the planning date • Description of the items remaining in the resolution entity • Description of the process and method with which the resolution entity calculates the transfer perimeter, can update it at short notice and adapt it to changing circumstances • Scenario analyses regarding necessary adjustments to the transfer perimeter, in particular due to changed economic conditions and the implementation of restructuring measures
6. Operational aspects of implementation	
6.1.	<p>Management information systems and data</p> <ul style="list-style-type: none"> • Presentation of the technical and organisational resources, how the special data requirements and information relating to the implementation of an asset deal can be fulfilled
6.2.	<p>Regulatory requirements in accordance with Part 7.3.3. b</p> <ul style="list-style-type: none"> • List of authorisations required in Germany, the European Economic Area and third countries • Presentation of how the required authorisations can be obtained at short notice and how transitional periods can be bridged (in particular with the help of section 119 of the SAG) • Presentation of the liquidity and capital requirements that the supervisory and resolution authorities place on the bridge institution (after coordination with the resolution authority) and how these will be met (e.g. with regard to LCR and total capital ratio) • Explanation of how required memberships of the bridge institution in guarantee schemes can be ensured

²⁷ Based on the typical procedure model presented in Chapter 6; deviations are possible in consultation with the resolution authority.

No.	Description
6.3.	<p>Ensuring financial continuity in accordance with 7.1.5. in compliance with 7.3.3. c (reference to separate manual if necessary)</p> <ul style="list-style-type: none"> • Presentation of an overall solution concept for financial continuity in respect of transfer perimeters • Reference to any outsourced aspects if applicable, e.g. FMI contingency plans, bail-in manual
a)	<p>Initial capital requirement</p> <ul style="list-style-type: none"> • Presentation of the analysis • Solution concept and ensuring the adjustment at short notice as well as implementation after resolution
b)	<p>Initial liquidity requirement</p> <ul style="list-style-type: none"> • Presentation of the analysis • Solution concept and ensuring the adjustment at short notice as well as implementation after resolution
c)	<p>Liquidity plan</p> <ul style="list-style-type: none"> • Presentation of the analysis • Solution concept and ensuring the adjustment at short notice as well as implementation after resolution
d)	<p>Refinancing strategy of the bridge institution</p> <ul style="list-style-type: none"> • Presentation of the analysis • Solution concept and ensuring the adjustment at short notice as well as implementation after resolution
e)	<p>Hedging concept of the bridge institution</p> <ul style="list-style-type: none"> • Presentation of the analysis • Solution concept and ensuring the adjustment at short notice as well as implementation after resolution
f)	<p>Rating of the bridge institution</p> <ul style="list-style-type: none"> • Presentation of the analysis • Solution concept and ensuring the adjustment at short notice as well as implementation after resolution
g)	<p>Accounting</p> <ul style="list-style-type: none"> • Presentation of the analysis • Solution concept and ensuring the adjustment at short notice as well as implementation after resolution
h)	<p>Taxes</p> <ul style="list-style-type: none"> • Presentation of the analysis • Solution concept and ensuring the adjustment at short notice as well as implementation after resolution
6.4.	<p>Ensuring operational continuity in accordance with 7.1.5. in compliance with 7.3.3. d (reference to separate manual if necessary)</p> <ul style="list-style-type: none"> • Presentation of an overall solution concept for operational continuity in respect of transfer perimeters • Reference to any outsourced aspects if applicable, e.g. FMI contingency plans, bail-in manual
a)	<p>Operational organisation</p> <ul style="list-style-type: none"> • Presentation of the analysis. • Solution concept and ensuring the adjustment at short notice as well as implementation after resolution
b)	<p>Staff</p> <ul style="list-style-type: none"> • Presentation of the analysis • Solution concept and ensuring the adjustment at short notice as well as implementation after resolution
c)	<p>Pension obligations</p> <ul style="list-style-type: none"> • Presentation of the analysis • Solution concept and ensuring the adjustment at short notice as well as implementation after resolution
6.5.	<p>Where applicable, ensuring the implementation of WDCCI/bail-in (reference to bail-in manuals in accordance with MaBail-in, if applicable)</p>
7. Retransfers	
	<p>Operationalisation of retransfers; presentation of a concept for how possible retransfers can be operationalised following resolution</p>
8. Crisis communication	
8.1.	<p>Communication plan in accordance with Principle 6.1 (reference to own communication manual if applicable)</p>
8.2.	<p>Governance for communication in accordance with principle 6.2 (reference to own communication manual if applicable)</p>

9. Governance and process plan in the event of a crisis

No.	Description
9.1.	Governance for implementing the instrument in accordance with 5.1.1 (reference to own governance document if applicable)
9.2.	Process plan (combined with process plans for other resolution tools, e.g. bail-in, if applicable)
10. Open points and challenges	
10.1.	Open points/challenges/solution concepts regarding the external interconnectedness analysis
10.2.	Open points/challenges/solution concepts regarding the internal interconnectedness analysis
10.3.	Open points/challenges/solution concepts regarding the determination of the transfer perimeter
10.4.	Open points/challenges/solution concepts regarding management information systems and data
10.5.	Open points/challenges/solution concepts regarding regulatory requirements
10.6.	Open points/challenges/solution concepts regarding financial continuity
10.7.	Open points/challenges/solution concepts relating to operational continuity
10.8.	Other open points/challenges/solution concepts
11. Annexes	
11.1.	Contact list
11.2.	Detailed process plan
11.3.	Detailed list of transfer items

7.4. Special preparations for the asset management company

7.4.1. Overview: the preparations of the resolution entity in planning the resolution tool of the asset management company (asset deal) focus in particular on (i) the separation analysis and (ii) ensuring the financial and operational continuity of the asset management company after the resolution. However, while the liquidation of the transferring legal entity must generally be assumed when applying the bridge institution and the sale of business in the asset deal, it must be taken into account when ensuring the financial and operational continuity of the asset management company that the transferring legal entity continues to exist and that its financial and operational continuity must also be ensured. It should also be noted that the requirements for carrying out a resolution valuation in accordance with MaValuation and the WDCCI power in accordance with MaBail-in must always be fulfilled.

7.4.2. Timetable: the time frame for the implementation of the resolution measure is selected by the resolution authority depending on the specific crisis situation and the size and complexity of the resolution group in resolution. In order to enable efficient resolution planning, the resolution authority sets a total time frame of two weeks as the basis for the preparations in the context of resolution planning. This takes into account the fact that a large part of the necessary measures can already be prepared in advance (e.g. indicative determination of the transfer perimeter, systemic and operational separation, concept for operational and financial continuity, etc.).

7.4.3. Separation analysis: in order for the institution or group to be considered resolvable, the following analyses in particular must be carried out as part of the separation analysis in accordance with sub-chapter 7.1.4, which in turn are included in the iterative determination of the final transfer perimeter as secondary conditions (e.g. via the financial and operational continuity of the asset management company):

- a. **Profitability:** analysis of the transfer perimeter with regard to the following aspects and preparation of a concept for implementation during the resolution. The concepts must be designed in such a way that they can be specified in greater detail and promptly supplemented in the event of a specific crisis:
 - development of a **dismantling** and **risk strategy** in particular presentation of the transfer perimeter, the risks involved and the assumptions regarding the development of the relevant market drivers, specifications regarding the type and structure of the wind-down activities and definition of the risk preference for dealing with the material risks, presentation of market-related and organisational measures to limit risks.
 - creation of a **wind-down concept** in particular on the basis of the wind-down strategy, implementation of a planning calculation, evaluation of the wind-down and risk strategy, determination of the amount of equity and liquidity required.
- b. **Regulatory requirements:** analysis of the transfer perimeter and creation of a concept regarding regulatory requirements. The concept must be designed in such a way that it can be promptly specified in greater detail in the event of a specific crisis. In particular, whether the asset management company is a regulated or non-regulated unit based on the transfer perimeter. If the transfer perimeter requires a regulated unit, the requirements according to 7.3.3. b must be fulfilled.
- c. **Financial continuity:** analysis of the transfer perimeter with regard to the following aspects and preparation of a concept for implementation during the resolution. The concepts must be designed in such a way that they can be specified in greater detail and promptly supplemented in the event of a specific crisis:

- development of a concept of the **initial capital requirements** taking into account economic necessities (and, if applicable, supervisory requirements) and, if envisaged, the bail-in effect;
 - development of a concept for **initial liquidity resources** taking into account economic necessities (and, if applicable, supervisory requirements), analysing the matching of maturities and, if necessary, proposing an order to extend the maturity of certain liabilities in the resolution order;
 - development of a **refinancing strategy** in particular content and time analysis as well as quantification of necessary refinancing measures after resolution, development of a concept for independent financing (in particular presentation of refinancing channels), analysis of required access to money and capital markets (including necessary authorisations and memberships as well as prerequisites);
 - development of a **hedging concept** to hedge interest rate and currency risks, in particular identification of the relevant hedging tools (based on the bank's existing hedging strategy), identification of the necessary access to financial market infrastructures, creation of a concept for ongoing risk management and hedging;
 - preparation of a **rating concept**, in particular estimation of the rating requirements after resolution, preparation of the necessary rating processes (in particular identification of the required information and application processes), rating assessment against the background of the transfer perimeter and the planned capitalisation as well as preparation of a concept for the updating and implementation once in resolution;
 - development of an **accounting concept** in particular, analysis and verification of accounting standards and the scope of consolidation under commercial law, analysis of the accounting consequences of the transfer (e.g. disclosure of hidden reserves and liabilities, options for transfer values, need for closing and partial balance sheets ("Teilbilanzen")), preparation of a concept for posting the transfer, for commissioning an audit of a capital increase through contributions in kind, for preparing and auditing a partial balance sheet in resolution;
 - development of a **tax concept** in particular, analysis and quantification of the tax implications of the transfer (income tax, sales tax, real estate transfer tax, consolidated tax groups, foreign-based permanent establishments, etc.), presentation of planned tax structuring measures and exercise of tax options on transfer, presentation of the effects of the resolution action.
- d. Operational continuity:** analysis of the transfer perimeter with regard to the following aspects and preparation of a concept for implementation during the resolution. The concepts must be designed in such a way that they can be specified in greater detail and promptly supplemented in the event of a specific crisis:
- development of a concept for the **operational and organisational structure**, in particular creation and documentation of the target operating model for the transfer perimeter in compliance with supervisory requirements (e.g. KWG, MaRisk), creation of requirement profiles for each resort to fill vacant positions and creation of an approach for updating and implementing this in resolution;
 - development of a concept for **management** and **servicing** in particular, identification and analysis of existing contractual relationships and new relationships between the

transfer perimeter and both the legacy institution and third parties (based on the internal and external interconnectedness analysis), elimination of transfer obstacles (e.g. lack of transferability, third country law), adjustment of old and creation of new service agreements, consideration of supervisory requirements to be observed for the outsourcing of services (e.g. from MaRisk), ensuring the multi-client capability of the relevant IT systems and applications;

- development of a **personnel concept** in particular identification of the decision-maker and the specialists for each business unit, estimation of the employee capacity required for proper business operations for each business area, identification of the types of contracts, collective agreements and pension obligations existing in the entity, preparation of a list of possible incentive and retention measures to avoid redundancies, development of a communication and information concept for employees and identification of the persons primarily responsible for communication, identification of the contact persons in Human Resources and the contact persons for clarifying technical issues, decision on how to deal with pension obligations, drafting of blank contracts for the granting of the power of procurator/other authorisations necessary for the implementation of operations.

7.4.4. Preparations: in order for the institution or group to be considered resolvable, the following specific preparations must be carried out in addition to the general preparations described in subsection 7.1:

- a. **process plan:** based on the exemplary timetable and in close coordination with the resolution authority, the resolution entity must develop a process plan that shows how the resolution entity will support the implementation of the asset management company tool. In particular, it includes all relevant milestones, activities, interconnections, time specifications, responsibilities and external dependencies.
- b. **financial and operational continuity of the transferring legal entity:** in order for the institution or group to be considered resolvable, it must be ensured that financial and operational continuity in the event of resolution is also maintained at all times for the transferring legal entity during and after the implementation of the structural resolution tools (asset deal).
- c. **retransfers:** development of a concept for how any necessary retransfers can be technically operationalised after resolution.

7.4.4. Transfer playbook: in order for the institution or group to be considered resolvable, a transfer playbook must be drawn up that includes the general and specific preparations for the implementation of the asset management company. It must be taken into account here that the asset management company can only be one resolution tool in a preferred or alternative resolution strategy.²⁸ The resolution entity must first determine which aspects are to be considered in which manuals, taking into account the overall resolution tools to be prepared, and create a corresponding overview of the manuals.²⁹

The following table shows the proposed structure of the transfer playbook for the case of the asset management company, which can be modified and expanded in consultation with the resolution authority.

²⁸ In addition, a resolution valuation is always a prerequisite for the application of a resolution tool.

²⁹ For example, in certain cases it may be appropriate (1) to include governance and communication in separate manuals, (2) to include the operation of the data room (also for potential acquirers) in full in the manual on the provision of information (in accordance with MaValuation) and/or (3) to present creditor participation in the case if a sale of the entity in a bail-in manual.

Table 6: Index transfer playbook asset management company

No.	Description
1. Introduction	
	<ul style="list-style-type: none"> • Purpose, objective and structure of the document • Brief description of the key elements of the resolution strategy (all envisaged instruments) • Key challenges of operationalising the resolution strategy
2. Description of the transfer	
2.1.	<p>Purpose of the transfer and the resolution strategy³⁰</p> <ul style="list-style-type: none"> • Resolution objectives at risk, e.g. ensuring the continuity of critical functions • Brief description of the transfer, e.g. sale of shares after change of legal form, consideration, capitalisation e.g. transfer of an asset surplus in combination with bail-in
2.2.	<p>Wind-down strategy and wind-down plan in accordance with 7.4.3. a</p> <ul style="list-style-type: none"> • Presentation and explanation of the wind-down and risk strategy • Presentation and explanation ensuring short-term adaptation and implementation in resolution
3. External interconnectedness analysis in accordance with Part 7.1.2.	
3.1.	<p>Interconnectedness and relationships between the resolution group and the rest of the group, if relevant</p> <ul style="list-style-type: none"> • Presentations and analysis of the material interconnectedness in the specified categories and the challenges in implementing the resolution strategy • Development of solution concepts with regard to possible challenges of the material interconnectedness in the implementation of the resolution strategy
3.2.	<p>Interconnectedness and relationships between the resolution group and the network, if relevant</p> <ul style="list-style-type: none"> • Presentations and analysis of the material interconnectedness in the specified categories and the challenges in implementing the resolution strategy • Development of solution concepts with regard to possible challenges of the material interconnectedness in the implementation of the resolution strategy
3.3.	<p>Interconnectedness and relationships between the resolution group and other third parties, if relevant</p> <ul style="list-style-type: none"> • Presentations and analysis of the material interconnectedness in the specified categories and the challenges in implementing the resolution strategy • Development of solution concepts with regard to possible challenges of the material interconnectedness in the implementation of the resolution strategy
4. Internal interconnectedness analysis in accordance with Part 7.1.3.	
4.1.	<p>Interconnectedness and relationships within the resolution entity</p> <ul style="list-style-type: none"> • Presentations and analysis of the material interconnectedness in the specified categories and the challenges in implementing the resolution strategy. • Development of solution concepts with regard to possible challenges of the material interconnectedness in the implementation of the resolution strategy.
4.2.	<p>Interconnectedness and relationships between the resolution entity and other entities in the resolution group</p> <ul style="list-style-type: none"> • Presentations and analysis of the material interconnectedness in the specified categories and the challenges in implementing the resolution strategy • Development of solution concepts with regard to possible challenges of the material interconnectedness in the implementation of the resolution strategy
5. Determination of the transfer perimeter³¹	
5.1.	<p>Purpose of the transfer and selection criteria</p> <ul style="list-style-type: none"> • Purpose of the transfer • Presentation of the selection criteria for the transfer items (or the criteria for non-selection), which were determined in discussion with the resolution authority • Description of the transfer items • Justification of the selection criteria against the background of the resolution objectives

³⁰ Contents of this part are to be documented based on the requirements of the resolution authority.

³¹ Based on the typical procedure model presented in Chapter 6; deviations are possible in consultation with the resolution authority.

No.	Description
5.2.	<p>Protective provisions</p> <ul style="list-style-type: none"> • Identification and presentation (including justification) of which links fall under the applicable safeguards or – in consultation with the resolution authority – the applicable protective provisions • Assessment of the significance of the selected protective provisions for the resolution strategy and the impact on the transfer perimeter (e.g. impact on the NPL ratio of the transfer perimeter) • Description of possible effects that arise because certain links are not protected (e.g. possible effects on customer relationships) • Description of how the resolution entity determines the corresponding transfer units from the protective provisions
5.3.	<p>Exclusion criteria</p> <ul style="list-style-type: none"> • Presentation of any exclusion criteria to be taken into account (transfer filter) and justification • Description/quantification of the transfer items affected by exclusion criteria
5.4.	<p>Hard constraints</p> <ul style="list-style-type: none"> • Description of the hard constraints with regard to the transfer perimeter • Analysis of compliance with the hard constraints • Quantification and description of the impact of necessary adjustments on the transfer perimeter
5.5.	<p>Soft constraints</p> <ul style="list-style-type: none"> • Description of the soft constraints • Analysis of the fulfilment of the soft constraints and decision (including justification) on possible resulting adjustments to the transfer perimeter • Quantification and description of the effects of adjustments made on the transfer perimeter
5.6.	<p>Transfer perimeter</p> <ul style="list-style-type: none"> • Description of the characteristics of the transfer perimeter based on the planning date • Description of the items remaining in the resolution entity • Description of the process and method with which the resolution entity calculates the transfer perimeter, can update it at short notice and adapt it to changing circumstances • Scenario analyses regarding necessary adjustments to the transfer perimeter, in particular due to changed economic conditions and the implementation of restructuring measures
6. Operational aspects of implementation	
6.1.	<p>Management information systems and data</p> <ul style="list-style-type: none"> • Presentation of the technical and organisational resources, how the special data requirements and information relating to the implementation of an asset deal can be fulfilled
6.2.	<p>Regulatory requirements in accordance with Part 7.4.3. b</p> <ul style="list-style-type: none"> • List of authorisations required in Germany, the European Economic Area and third countries • Presentation of how the required authorisations can be obtained at short notice and how transitional periods can be bridged (in particular with the help of section 119 of the SAG) • Presentation of the liquidity and capital requirements that the supervisory and resolution authorities place on the bridge institution (after coordination with the resolution authority) and how these will be met (e.g. with regard to LCR and total capital ratio) • Explanation of how required memberships of the bridge institution in guarantee schemes can be ensured
6.3.	<p>Ensuring financial continuity in accordance with 7.1.5. in compliance with 7.4.3. c (reference to separate manual if necessary)</p> <ul style="list-style-type: none"> • Presentation of an overall solution concept for financial continuity in respect of transfer perimeters • Reference to any outsourced aspects, e.g. FMI contingency plans, bail-in manuals
a)	<p>Initial capital requirement</p> <ul style="list-style-type: none"> • Presentation of the analysis • Solution concept and ensuring the adjustment at short notice as well as implementation after resolution
b)	<p>Initial liquidity requirement</p> <ul style="list-style-type: none"> • Presentation of the analysis • Solution concept and ensuring the adjustment at short notice as well as implementation after resolution
c)	<p>Liquidity plan</p> <ul style="list-style-type: none"> • Presentation of the analysis • Solution concept and ensuring the adjustment at short notice as well as implementation after resolution

No.	Description
	Refinancing strategy
d)	<ul style="list-style-type: none"> • Presentation of the analysis • Solution concept and ensuring the adjustment at short notice as well as implementation after resolution
	Hedging concept
e)	<ul style="list-style-type: none"> • Presentation of the analysis • Solution concept and ensuring the adjustment at short notice as well as implementation after resolution
	Credit rating
f)	<ul style="list-style-type: none"> • Presentation of the analysis • Solution concept and ensuring the adjustment at short notice as well as implementation after resolution
	Accounting
g)	<ul style="list-style-type: none"> • Presentation of the analysis • Solution concept and ensuring the adjustment at short notice as well as implementation after resolution
	Taxes
h)	<ul style="list-style-type: none"> • Presentation of the analysis • Solution concept and ensuring the adjustment at short notice as well as implementation after resolution
6.4.	<p>Ensuring operational continuity in accordance with 7.1.6. in compliance with 7.3.3. d (reference to separate manual if necessary)</p> <ul style="list-style-type: none"> • Presentation of an overall solution concept for operational continuity in respect of transfer perimeters • Reference to any outsourced aspects, e.g. FMI contingency plans, bail-in manuals
	Operational organisation
a)	<ul style="list-style-type: none"> • Presentation of the analysis • Solution concept and ensuring the adjustment at short notice as well as implementation after resolution
	Staff
b)	<ul style="list-style-type: none"> • Presentation of the analysis • Solution concept and ensuring the adjustment at short notice as well as implementation after resolution
	Pension obligations
c)	<ul style="list-style-type: none"> • Presentation of the analysis • Solution concept and ensuring the adjustment at short notice as well as implementation after resolution
6.5.	Where applicable, Ensuring the implementation of WDCCI/bail-in (reference to bail-in manual in accordance with MaBail-in, if applicable)
7. Retransfers	
	Operationalisation of retransfers; presentation of a concept for how possible retransfers can be operationalised following resolution
8. Crisis communication	
8.1.	Communication plan in accordance with principle 6.1 (reference to own communication manual if applicable)
8.2.	Governance for communication in accordance with principle 6.2 (reference to own communication manual if applicable)
9. Governance and process plan in the event of a crisis	
9.1.	Governance for implementing the instrument in accordance with 5.1.1 (reference to own governance document if applicable)
9.2.	Process plan (combined with process plans for other resolution tools, e.g. bail-in, if applicable)
10. Open points and challenges	
10.1.	Open points/challenges/solution concepts regarding the external interconnectedness analysis
10.2.	Open points/challenges/solution concepts regarding the internal interconnectedness analysis
10.3.	Open points/challenges/solution concepts regarding the determination of the transfer perimeter
10.4.	Open points/challenges/solution concepts regarding management information systems and data
10.5.	Open points/challenges/solution concepts regarding regulatory requirements
10.6.	Open points/challenges/solution concepts regarding financial continuity
10.7.	Open points/challenges/solution concepts relating to operational continuity
10.8.	Other open points/challenges/solution concepts
11. Annexes	

No.	Description
11.1.	Contact list
11.2.	Detailed process plan
11.3.	Detailed list of transfer items

Annex I – Glossary

Asset deal	Transfer of assets, liabilities and rights of the resolution entity.
Bail-in tool	Bail-in tool within the meaning of Article 27 of the SRMR and the creditor participation tool within the meaning of section 90 of the SAG.
Group entity	Entities within the meaning of Article 2(1) No 31 of the BRRD in conjunction with Article 3(2)(1) of the SRMR or section 2 (3) no. 30 in conjunction with section 1 (1) no. 3 of the SAG.
Institution	CRR credit institution or investment firm that is covered by the scope of application in accordance with section 1 of the German Recovery and Resolution Act (SAG).
Relevant capital instruments	Relevant capital instruments within the meaning of Article 3(1) No 51 of the SRMR and section 2 (2) of the SAG.
Resolution authority	German Federal Financial Supervisory Authority, BaFin, in its function as resolution authority in accordance with section 3 (1) of the SAG.
Resolution entity	see no. 3.2.2.
Resolution group	see no. 3.2.3.
Resolution strategy	A resolution strategy is the package of resolution measures envisaged in a resolution plan or group resolution plan.
Share deal	Transfer of shares in the resolution entity.
Structural resolution tool	Resolution tool that provides for the transfer of shares or assets, liabilities and rights within the meaning of Article 24(1), Article 25(1) or Article 26(1) of the SRMR or section 107 of the SAG.
Transfer perimeter	All of the assets, liabilities and rights envisaged for transfer as part of an asset deal.
Valuer	“Valuer” refers to either the independent valuer within the meaning of Article 38 of the Commission Delegated Regulation (EU) 2016/1075 or the resolution authority, if it performs a preliminary valuation in accordance with Article 20(3) in conjunction with (10) in conjunction with the fourth subparagraph of Article 7(3) of the SRMR or section 74 of the SAG.
WDCCI power	Power to implement write-down and conversion of relevant capital instruments within the meaning of Article 21 of the SRMR or WDCCI power within the meaning of section 89 of the SAG.