

# Comments

on the EBA Consultation Paper

“Draft Implementing Technical Standards on procedures, forms and templates for the provision of information for resolution plans under Article 11(3) of Directive 2014/59/EU of the European Parliament and the Council”

(EBA/CP/2015/01)

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The **German Banking Industry Committee** is the joint committee operated by the central associations of the German banking industry. These associations are the Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR), for the cooperative banks, the Bundesverband deutscher Banken (BdB), for the private commercial banks, the Bundesverband Öffentlicher Banken Deutschlands (VÖB), for the public banks, the Deutscher Sparkassen- und Giroverband (DSGV), for the savings banks finance group, and the Verband deutscher Pfandbriefbanken (vdp), for the Pfandbrief banks. Collectively, they represent approximately 1,700 banks.

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Comments on the Draft Implementing Technical Standards on procedures, forms and templates for the provision of information for resolution plans under Article 11(3) of Directive 2014/59/EU of the European Parliament and the Council (EBA/CP/2015/01)

Dear Sir or Madam,

We appreciate the opportunity to comment on the consultation paper EBA/CP/2015/01, published on 14 January 2015.

## I. General Comments

According to Article 2 (3) of the Draft ITS, the resolution authority shall directly request the institution to provide the necessary information when it is not already available to the competent authority or when the format in which the information is provided by the competent authority is not satisfactory. In our view, the latter case is not covered by the BRRD. Article 11 (2) of the BRRD requires the competent authority and resolution authority to check whether the information to be provided is already available. Where this is the case, competent authorities shall provide that information to the resolution authorities. The BRRD however does not provide for a direct request to the institution when the format in which the information is provided by the competent authority is not satisfactory to the resolution authority. As any such requests would unavoidably divert the burden from the authorities to the supervised institution, we find this requirement to be both disproportionate and unduly extending beyond the legislative foundation within the BRRD.

If the information is already available to the authorities it should be used without any further burden to the institution. Any necessary format adjustments should be carried out between competent authorities and resolution authorities and should certainly not be imposed on the institution.

Therefore, we strongly suggest to amend Article 2 (3) of the Draft ITS as follows:

*Where the information is not already available to the competent authority ~~or where the format in which the information is provided by the competent authority is not satisfactory to the resolution authority, taking into account in particular the procedure to draw up group resolution plans~~, the resolution authority shall directly request the institution to provide the necessary information.*

As has already been emphasized at the public hearing on 27 February 2015, we furthermore suggest to include clarifying remarks with regard to the proportionality of the requirement for a resolution plan. Recital 25 of the BRRD states that the content of a resolution plan shall be proportionate to the systemic significance of the institution or the group. Therefore, resolution authorities have the discretion to decide not to draw up a resolution plan in certain cases. As has been confirmed at the hearing, the requirement to provide information only applies to cases where the resolution authority has decided to draw up a resolution plan. To avoid misunderstandings, the ITS should clarify that the requirements do not apply if the resolution authority decides against a resolution plan under proportionate considerations. Otherwise we fear that smaller institutions could be faced with excessive bureaucratic expenses, especially as the required level of detail will not always be readily available.

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**II. Questions related to the Draft ITS**

**Q01: Do you agree with the level of details of this minimum set of forms and templates for resolution planning?**

At present the Draft ITS does not contain suggestions for concrete thresholds. For example, with regard to Annex X (“Interconnectedness”), it remains unclear from which “threshold” on interconnectedness should be disclosed. In our view there is clearly a need to render more precisely when a particular criterion is considered to be significant enough to justify disclosure, as to ensure a “level playing field”.

**Q02: Do you think that forms and templates capturing necessary information for resolution planning purpose are missing in this minimum set?**

(no comments)

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