



EBA/CP/2014/46

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18 December 2014

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# Consultation Paper

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Draft Regulatory Technical Standards on Resolution Colleges under  
Article 88(7) of Directive 2014/59/EU

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# 1. Responding to this Consultation

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The EBA invites comments on all proposals put forward in this paper and in particular on the specific questions summarised in 5.2.

Comments are most helpful if they:

- respond to the question stated;
- indicate the specific point to which a comment relates;
- contain a clear rationale;
- provide evidence to support the views expressed/ rationale proposed; and
- describe any alternative regulatory choices the EBA should consider.

## Submission of responses

To submit your comments, click on the 'send your comments' button on the consultation page by 18.03.2015. Please note that comments submitted after this deadline, or submitted via other means may not be processed.

## Publication of responses

Please clearly indicate in the consultation form if you wish your comments to be disclosed or to be treated as confidential. A confidential response may be requested from us in accordance with the EBA's rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the EBA's Board of Appeal and the European Ombudsman.

## Data protection

The protection of individuals with regard to the processing of personal data by the EBA is based on Regulation (EC) N° 45/2001 of the European Parliament and of the Council of 18 December 2000 as implemented by the EBA in its implementing rules adopted by its Management Board. Further information on data protection can be found under the Legal notice section of the EBA website.

## 2. Executive Summary

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Article 88(7) of Directive 2014/59/EU (hereinafter “the BRRD”) mandates the EBA with the development of draft regulatory technical standards (RTS) to specify the operational functioning of the resolution colleges that are to be established for EEA cross-border banking groups. The draft RTS builds on the experience gained from the organisation and operation of supervisory colleges while recognising the differences in the membership and tasks performed by resolution colleges.

The draft RTS are structured in three main titles:

- Title I – Operational organisation of resolution colleges;
- Title II – Resolution planning joint decisions; and
- Title III – Cross-border group resolution.

The operational organisation of resolution colleges includes provisions for the establishment and the ongoing functioning of resolution colleges. The establishment includes an identification of resolution college members and agreement on written arrangements and procedures for the college functioning. The involvement of third-country resolution authorities should be based on the outcome of the equivalence assessment of the confidentiality regime of third-country resolution authorities.

Further operational aspects of the resolution college include the organisation of meetings and other activities as well as general rules for exchanging information, the resolution college communication policy and procedures for an emergency situation.

Resolution planning joint decisions will be the key annual deliverables of the resolution college and cover the joint decision on the group resolution plan and resolvability assessment, the joint decision on measures to address substantive impediments to resolvability, and the joint decision on setting up minimum requirements for own funds and eligible liabilities (MREL). In Title II, the draft RTS elaborate on provisions that cover all relevant steps on planning and reaching these joint decisions.

In a situation when a notification on a failing or likely to fail institution is received by the group-level resolution authority, the process of assessing the need for a group resolution scheme and the need for mutualising financing arrangements should be activated. Provisions included in the draft RTS under Title III support this process by elaborating clear procedural steps to be taken by the resolution college. Where conditions for group resolution are met the process for taking a joint decision on the group resolution scheme should be followed. This joint decision is signed by the resolution authorities of the subsidiaries covered by the scheme.

The joint decision processes detailed in these RTS include the situation where some of the resolution authorities of subsidiaries disagree with the draft joint decision and it can be reached by a subset of authorities. Provisions covering the elements of the decisions taken in the absence of any joint decision are also elaborated in these technical standards aiming to ensure transparency and interaction between home-host authorities even in case of disagreement, both on the decisions taken on an individual basis and also on the reasons leading into disagreement.

When finalising these draft RTS, the EBA will consider the responses to this consultation paper as well as any opinion of the Banking Stakeholder Group. The EBA will submit the draft RTS on resolution colleges to the European Commission by 3 July 2015.

### 3. Background and rationale

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The BRRD establishes a framework for the recovery and resolution of credit institutions and investment firms and provides a common resolution regime in the Union that allows authorities to deal with failing institutions as well as ensuring cooperation between home and host authorities in the process of resolution planning.

The crisis has shown that cross border cooperation and coordination is necessary for effective resolution. In this context, the BRRD introduces the requirement for resolution colleges, whose membership extends beyond the core membership of the supervisory colleges and includes also resolution authorities, competent ministries, central banks, authorities responsible for the deposit guarantee schemes and the EBA, for group entities operating across the EU. It also provides for the third country resolution authorities to participate as observers in the resolution college subject to their confidentiality provisions being assessed as equivalent with the ones established by Union law. The aim of these resolution colleges is to ensure cooperation at all stages under the BRRD from establishment, going concern and resolution planning to situations of cross-border resolution. Under these stages there are various tasks, including joint decisions expected to be reached, which need to be undertaken to ensure a coordinated approach.

As a general principle, these draft RTS encourage and expect resolution authorities to make use of the work already performed under the auspices of the supervisory college or to take into account information that competent authorities already have at their disposal in order to avoid unnecessary duplication of efforts and requests for information to the supervised group and its entities. The group-level resolution authority will, in a similar way to the consolidating supervisor in the supervisory colleges, lead the resolution colleges as a structure within which national authorities take decisions.

Organisational aspects of the resolution college work are expected to facilitate both the establishment and functioning of the resolution college. This particular section of the draft RTS has benefitted from the relevant policy work performed in the area of supervisory colleges, especially with regards to the performance of the mapping exercise for identifying resolution college members and observers; for performing the assessment of the confidentiality provisions of third country resolution authorities; and for developing and maintaining the written arrangements and procedures - which among other aspects of college work also cover the framework for engaging and cooperating with third country resolution authorities.

Resolution planning is an essential element to effective resolution. In this context, the draft RTS elaborate on provisions that ensure that resolution authorities have all the information necessary to identify, assess and ensure the continuance of group's critical functions through the development of the group resolution plan and performance of the resolvability assessment. Resolution authorities are also expected to assess the potential impact of any measures to address substantive impediments to resolvability, not only on the institution, but also on the financial stability in the Member States where the group operates and on the Union as a whole. Cross-border implications are also highlighted while the group-level resolution authority sets its proposal on the minimum requirements on own funds and eligible liabilities at parent and at consolidated level, a proposal that needs to be reconciled and assessed against the minimum requirements set at each subsidiary level. The links between the MREL and the resolution plan which are underlined in the BRRD are also stressed in these draft RTS, with the these two joint

decisions – joint decision on group resolution plan and resolvability assessment, and joint decision on MREL - running in parallel.

Given the possibly large impact of a failing institution on the financial system and economy of a Member State, the BRRD aims to introduce a transparent process within the resolution college for establishing a resolution framework where intended resolution actions or measures can be shared. In this context the resolution college is the forum for deciding on the need for a group resolution scheme and mutualised financing arrangements where necessary, taking into account the interdependency of entities within a group and where financial support may need to be transferred. Furthermore the process for the joint decision on a group resolution scheme aims to ensure a sufficient degree of cooperation and coordination of resolution actions and measures with the objective of protecting financial stability in a specific Member State and at Union level resulting in an orderly resolution of an institution.

The draft RTS provide a coordinated and structured approach to resolution colleges functioning, allowing members and observers to be involved in the resolution college tasks necessary for regular information exchange, appropriate resolution planning, with consistent joint decisions and clear actions and decisions in the case of resolution.

# 4. Draft Regulatory Technical Standards on Resolution Colleges under Article 88(7) of Directive 2014/59/EU

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EUROPEAN COMMISSION

Brussels, **XXX**  
[...](2012) **XXX** draft

**COMMISSION DELEGATED REGULATION (EU) No .../..**

**of **XXX****

**[...]**





**COMMISSION DELEGATED REGULATION (EU) No .../..**

**of XXX**

**[...]**

**supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to regulatory technical standards in order to specify the operational functioning of the resolution colleges for the performance of the tasks referred to in paragraph 1 of Article 88 of this Directive**

(text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,  
Having regard to Directive 2014/59/EU<sup>1</sup> of the European Parliament and of the Council

Whereas:

- (1) The performance of the mapping of the group entities in EEA and non-EEA countries is an exercise performed by the consolidating supervisor while in the process of setting up the supervisory college for an EEA cross border banking group. With the objective of avoiding duplication of efforts and leveraging on the work performed already by the consolidating supervisor, the provisions of this draft Regulation envisaged the outcome of this mapping exercise to be the starting point for the group-level resolution authority to identify the members and potential observers of the resolution college.
- (2) Assessing the confidentiality regime of third country resolution authorities under the lead of the group-level resolution authority is an important element so for the resolution college to determine the participation of these third country resolution authorities as observers of the resolution college.
- (3) The written arrangements and procedures shall cover all areas of resolution college work and shall note arrangements made between the resolution college members that are college-specific. The written arrangements should be comprehensive, coherent and exhaustive and should provide an adequate and appropriate basis to

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<sup>1</sup>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,

- the resolution and competent authorities for them discharging their relevant duties and tasks within, rather than outside the resolution college.
- (4) Resolution college members should discuss and agree on the scope and level of involvement of observers, if any, in the college. The framework of observers' participation in college should be clearly stated in the written arrangements and procedures that should be communicated to the observers.
  - (5) Members of the resolution college should work together, coordinating their supervisory actions to the maximum extent possible and cooperating closely in order to better perform their duties, to avoid duplication of tasks, including duplication of information requests addressed to the supervised entities of the group.
  - (6) The group-level resolution authority should have access to all information necessary for the performance of its tasks and responsibilities and should act as the coordinator for the collection and dissemination of information received from any college member or observer or from any entity of the group. The same applies also to the members of the college.
  - (7) Timely and realistic planning for the joint decision process is essential. Every resolution authority involved should be required to provide the group-level resolution authority with its contribution in the joint decision in a timely and efficient way.
  - (8) The steps to be followed for reaching the various resolution planning and resolution joint decisions should be set out, recognising that some of these steps may be performed in parallel and others may be performed sequentially.
  - (9) To ensure that an effective process is established, the group-level resolution authority should have the ultimate responsibility for determining the sequence of the steps to be followed.
  - (10) Establishing clear provisions setting up the content of, and the process for the joint decision document should ensure that joint decisions are of high quality, comparable among themselves also with regard to the level of reasoning required and that they address the same needs for their users and recipients.
  - (11) In order to clarify the process to be followed once the joint decision is reached, to provide transparency on the treatment of the outcome of the decision and to facilitate appropriate follow-up actions where needed, the communication of the joint decision to the group should be clearly set out in this Regulation.
  - (12) The provisions of this Regulation also cover aspects of cooperation between members of the college in the absence of a joint decision, aiming to ensure appropriate level of coordination and transparency of unilateral decisions made by resolution authorities of the subsidiaries and by the group-level resolution authority. Adequate reasoning of these decisions as well as communication to the group entities should be coordinated to ensure consistency and this is effected by this Regulation.
  - (13) There is a need to promote the performance of all related tasks of the resolution authorities within the resolution college: in that respect, the Regulation should

encourage coordination within the resolution college regarding the input that resolution authorities should provide independently to the supervisory college or to the consolidating supervisor, in particular with regard to the review and assessment of the group recovery plan that is expected to be performed under the auspices of the supervisory college, and to which resolution authorities may provide their opinion, especially with regards to possible impediments to resolvability.

- (14) The tight deadlines applicable to group resolution schemes require clarity of the content and process for each of their elements for the joint decision. In particular, with regard to financing plans and the application of Article 107 of Directive 2014/59/EU, the resolution college should take into account whether mutualisation of national financial arrangements is necessary. In the absence of mutualisation, the content and process of the financing plan should be adjusted accordingly.
- (15) In order to maintain a clear and streamlined process with regard to the joint decision under Title III, the joint decision on the financing plan is included in the joint decision on the group resolution scheme and is not separate.
- (16) This Regulation is based on the draft regulatory technical standards submitted by the European Supervisory Authority (European Banking Authority) (EBA) to the European Commission;
- (17) The EBA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council<sup>2</sup>,

HAS ADOPTED THIS REGULATION:

*Article 1*

*Subject matter*

This Regulation specifies the operational functioning of the resolution colleges for the performance of the tasks referred to in paragraph 1 of Article 88 of Directive 2014/59/EU.

*Article 2*

*Definitions*

For the purposes of this Regulation the following definitions shall apply:

‘other authorities’: means resolution authorities of the jurisdictions in which significant branches are located, relevant competent authorities referred to in Articles 115 and 116 of Directive 2013/36/EU (CRD), including the competent authorities of the jurisdictions of

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<sup>2</sup> Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

Member States in which any significant branches are located, and resolution authorities of Member States where the entities referred to in point (c) and (d) of Article 1(1) of Directive 2014/59/EU are established

## **TITLE I**

### **OPERATIONAL ORGANISATION OF RESOLUTION COLLEGES**

#### *Article 3*

##### *Identifying the members and observers of the resolution college*

1. The group-level resolution authority shall identify the members and potential observers of the resolution college having regard to Article 88(2) and (3) of Directive 2014/59/EU.
2. For the purpose of the identification referred to in the previous paragraph, the group-level resolution authority shall conduct the mapping of group entities as referred to in Article 1(1) of the Directive 2014/59/EU, taking into account the mapping of that group as performed by the consolidating supervisor in accordance with Article 1 of the Commission Delegated Regulation (EU) No....
3. Upon finalisation, the group level resolution authority shall transmit the outcome of the mapping and the list of members and potential observers to all members of the resolution college.
4. The group level resolution authority shall review and update the mapping of group entities and the list of members and potential observers at least annually. It shall also review and update the mapping and the list of members and potential observers following any material change to the legal or organisational structure of the group or to its business.

#### *Article 4*

##### *Equivalence of the confidentiality regime of third-country resolution authorities*

1. Where a third country resolution authority identified as potential observer in accordance with Article 3 requests to participate in the resolution college, the group-level resolution authority shall inform the members of the college about this request.
2. The group-level resolution authority shall perform the assessment of the confidentiality regime of this third country, taking into account the opinion of the other members of the resolution college in accordance with Article 88(3) and Article 98 of Directive 2014/59/EC.
3. When the confidentiality regime of the requester third country resolution authority is deemed equivalent, the group-level resolution authority may invite this authority to

participate in the resolution college as observer in accordance with Article 88(3) of Directive 2014/59/EC.

4. While sharing information with the third country resolution authority, the group-level resolution authority shall endeavour to ensure that:
  - a) the information is transmitted to the third country resolution authority, only for the purposes of the latter performing its resolution tasks, which must be comparable to those determined under Directive 2014/59/EU;
  - b) other members of the college, in particular the ones that may not agree with the assessment of the confidentiality regime of the third country as performed by the group-level resolution authority, have expressed their consent in sharing information relating to the entities under their jurisdiction.
5. The group-level resolution authority shall ensure that the consent for sharing the information relating to third country subsidiaries is obtained from invited resolution authorities of third countries in accordance with Article 98(1) of Directive 2014/59/EC.

#### *Article 5*

##### *Establishment and update of contact lists*

1. The group-level resolution authority shall maintain and share with the members and observers of the resolution college contact details of nominated persons from each member and observer for the purpose of performing resolution college tasks. The contact details should also include out-of-hours contact data to be used for emergency situations and in particular for the purpose of deciding on the need to establish and agree a group resolution scheme.
2. The members and observers of the resolution college shall inform the group-level resolution authority of contact details of relevant persons and of any changes in those contact details without undue delay.

#### *Article 6*

##### *Elements of written arrangements and procedures for the functioning of the resolution college*

1. The written arrangements and procedures pursuant to Article 88(5)(a) of Directive 2014/59/EU shall include at least the following elements:
  - a) a description of the group, parent undertaking, subsidiaries and significant branches that are within the scope of the arrangement;
  - b) the identification of the members and observers of the resolution college and the other authorities involved in accordance with Article 3; and
  - c) a description of the general framework for cooperation and coordination in the resolution college.

2. The general framework for cooperation and coordination shall include:

- a) information on the overall structure of the group covering all group entities;
- b) description of the different resolution college configurations or substructures for the performance of different tasks, where relevant;
- c) identification of the members and observers of the college participating in specific college activities;
- d) description of the framework covering observer's participation in the college, including their involvement in the various dialogues and processes of the college and their rights and obligations with regard to exchanging information;
- e) description of cooperation and coordination arrangements in an emergency situation, which may include the situation when the group or an institution in a group is considered to be failing or likely to fail;
- f) description of the arrangements for exchanging information including the relevant scope, frequency and channels;
- g) description of relevant information to be shared with resolution college members and observers, where relevant, in relation to resolution planning, resolvability assessment and other tasks referred to in Article 88 paragraph 1 of Directive 2014/59/EU;
- h) description of the arrangements for the treatment of confidential information;
- i) description of procedures for hosting regular and ad hoc meetings and engagement with college members and observers, where relevant;
- j) description of the method for coordinating the input to be provided independently by the resolution authorities to the supervisory college or to the consolidating supervisor, where required by legislation or on an own initiative basis;
- k) description of the method for communicating the input referred to in (j) above, in particular a detailed description of the relevant role of the group-level resolution authority in communicating that input to the consolidating supervisor;
- l) a description of the communication policy with the consolidating supervisor, the supervisory college, the Union parent undertaking and the entities of the group as referred to in Articles 10 and 11;
- m) any other agreement, concerning the functioning of the resolution college, between the members of the resolution college; and
- n) provisions covering discontinuation arrangements.

*Establishment and update of written arrangements and procedures for the functioning of the resolution college*

1. The group-level resolution authority shall prepare its proposal for the written arrangements and procedures for the functioning of the resolution college in accordance to Article 6.
2. The group-level resolution authority shall communicate its proposal to the members of the resolution college for consultation, inviting them to provide their views and indicating the relevant deadline for the submission of these views.
3. The group-level resolution authority shall take into account the views of the members of the resolution college and explain, if necessary, the reason for not taking them on board.
4. Upon finalisation the group-level resolution authority shall communicate the written arrangements and procedures for the functioning of the resolution college to the members and to the observers of the resolution college.
5. Written arrangements and procedures for the functioning of the resolution college shall be reviewed, and where appropriate updated and after any material changes in the composition of the resolution college.
6. While updating the written arrangements and procedures for the functioning of the resolution college, the group-level resolution authority and the other members of the college shall follow the process of this Article. Observers of the college shall be notified on any update of the written arrangements and procedures that affect their observership

*Article 8*

*Operational aspects of college meetings and other activities*

1. The group-level resolution authority shall convene at least one meeting of the resolution college per year. The group level resolution authority shall organise other college activities on a regular basis and at least in cases where a dialogue between college members is required.
2. The group-level resolution authority shall prepare and communicate to college members the agenda and objectives of planned meetings and other activities.
3. All members and observers participating in college meetings or other activities shall ensure that the appropriate delegates, according to the objectives of the meeting and other activities of the resolution college, participate in these meetings and other activities and that relevant members of the resolution college are able to commit their authorities, to the maximum extent possible, in case decisions are expected to be taken in these meetings or other activities.
4. The group-level resolution authority shall ensure that relevant documents are circulated well in advance before a particular meeting or activity of the resolution college to

enable the members and observers and other authorities participating/invited to participate effectively in the meeting or activity.

5. Outcomes and decisions of college meetings or other activities shall be documented in writing and communicated to college members in due time. The group-level resolution authority may circulate the outcomes and decisions of the meetings or other activities to the observers, if they are relevant for the tasks performed by these authorities.

### *Article 9*

#### *Exchange of information*

1. The group-level resolution authority and the members and observers of the resolution college shall ensure that they exchange among themselves all essential and relevant information, whether received from a group entity, a competent, resolution, designated or supervisory authority or any other source. This information shall be adequate, accurate and timely, thereby enabling and facilitating the efficient, effective and full performance of the tasks of the college members in going concern and in emergency situations.
2. Members of the college shall also exchange all information necessary, in particular by transmitting all information required to the group-level resolution authority, in order to facilitate the coordination of the input to be provided to the consolidating supervisor or the college of supervisors.
3. The group-level resolution authority shall receive information referred to in paragraphs 1 and 2 and shall transmit it:
  - a) to the members of the college, as appropriate;
  - b) to the observers as appropriate and in accordance with the relevant stipulations of the written arrangements.
4. When the college is organised in different configurations or substructures, the group-level resolution authority shall keep all resolution college members fully informed, in a timely manner, on the actions taken or the measures carried out in these college configurations or substructures.
5. If not provided for otherwise, any ordinary means of communication can be used, preferring secure means of communication if available. For publicly available information, it shall be sufficient that the group-level resolution authority provides the reference to the publicly available information.
6. If a secure resolution college website exists, the use of the platform shall be the main means of communication.

### *Article 10*

#### *Communication policy*



1. The group-level resolution authority shall be the competent authority responsible for the communication with the Union parent undertaking, the consolidating supervisor and the designated or any other relevant authority under that jurisdiction, if different than the consolidating supervisor.
2. The resolution authorities of Members States shall be the authorities responsible for the communication with the entities and the competent, designated and other relevant authorities under their jurisdiction.

### *Article 11*

#### *Coordination of public communication*

- (1) The members and observers of the resolution college shall coordinate to the extent possible their external communications related to group resolution strategies and schemes.
- (2) For the purpose of co-ordination of the external communication, the members and observers of the resolution college shall agree at least on the following elements:
  - (a) allocation of responsibilities for coordinating external communication, both during a going concern situation and in a situation that an institution or group is considered as failing or likely to fail and resolution situation;
  - (b) determining the level of information to be disclosed on group resolution strategies;
  - (c) co-ordination of public statements in situations that an institution or group is considered as failing or likely to fail;
  - (d) co-ordination of public statements related to resolution actions taken including the publication of orders or instruments by which the resolution actions were taken or notices summarising the effects of resolution action.

### *Article 12*

#### *Emergency situation*

- (1) The group-level resolution authority shall establish and regularly test operational procedures for the functioning of the resolution college in an emergency situation, which may include a situation when the group or an institution in a group is considered to be failing or likely to fail.
- (2) Operational procedures referred to in paragraph 1 shall cover at least the following elements:
  - a) means of secured communication to be used;
  - b) set of information to be exchanged;
  - c) relevant persons to be contacted; and
  - d) communication procedures to be followed by the relevant college members and observers.

## **TITLE II**

### **RESOLUTION PLANNING JOINT DECISIONS**

#### *Chapter 1*

#### *Group resolution plan, resolvability assessment and substantive impediments to resolvability*

#### **SECTION I**

#### *Joint decision process on group resolution plan and resolvability assessment*

##### *Article 13*

##### *Planning of the steps of the joint decision process*

1. Prior to the start of the joint decision process, the group-level resolution authority and the resolution authorities of subsidiaries shall agree on a timetable of steps to be followed in that process (hereinafter “joint decision timetable”). In the case of a failure to agree, the group-level resolution authority shall set the joint decision timetable after considering the views and reservations expressed by the resolution authorities of subsidiaries.
2. The joint decision timetable, to be updated at least annually, shall include the following steps to be implemented as agreed between the group-level resolution authority and the resolution authorities of subsidiaries:
  - (a) preliminary dialogue between the group-level resolution authority and the resolution authorities of subsidiaries on the resolution strategy of the group, in preparation of the joint decision on the group resolution plan including its resolvability assessment;
  - (b) request of information necessary for the drawing up of the group resolution plan, including the resolvability assessment, in accordance with Article 11 of Directive 2014/59/EU to the Union parent undertaking;
  - (c) submission of the information requested in point (b) by the Union parent undertaking directly to the group-level resolution in accordance with Article 13(1) of Directive 2014/59/EU;
  - (d) transmission of the information that the group-level resolution authority receives from the Union parent undertaking to the authorities referred to in Article 13(1) of Directive 2014/59/EU and indication a deadline by when any additional information requests should be made;
  - (e) transmission of the relevant information from the group-level resolution authority to the resolution authorities of subsidiaries, to other authorities and to third country-resolution authorities in accordance with Article 13(2) of Directive 2014/59/EU and subject to Article 17;

- (f) submission of contributions for the development of the group resolution plan and the resolvability assessment by the resolution authorities of subsidiaries to the group-level resolution authority, as appropriate;
  - (g) submission of the draft group resolution plan and the draft resolvability assessment from the group-level resolution authority to the resolution authorities of subsidiaries, other authorities and third country resolution authorities, subject to Article 18;
  - (h) submission of comments on the draft group resolution plan and on the draft resolvability assessment, if any, from other authorities and third-country resolution authorities to the group-level resolution authority;
  - (i) dialogue between the group-level resolution authority and the Union parent undertaking on the draft group resolution plan and its resolvability assessment, where this is deemed appropriate by the group-level resolution authority;
  - (j) dialogue between the group-level resolution authority and the resolution authorities of subsidiaries on the draft group resolution plan and its resolvability assessment;
  - (k) circulation of the draft joint decision document on the group resolution plan and on the resolvability assessment by the group-level resolution authority to the resolution authorities of subsidiaries;
  - (l) dialogue on the draft joint decision document on the group resolution plan and on the resolvability assessment between the group-level resolution authority and the resolution authorities of subsidiaries;
  - (m) reaching joint decision on the group resolution plan and on the resolvability assessment;
  - (n) communication of the conclusion of the joint decision to the Union parent undertaking along with a summary of the key elements of the group resolution plan;
3. The timetable shall:
- (a) reflect the scope and complexity of each step of the joint decision process;
  - (b) take into account the timetable of other joint decisions organised within the resolution college.
  - (c) take into account, to the extent possible, the timetable of other joint decisions organised within the relevant supervisory college, in particular the timetable of the joint decision on the review and assessment of the group recovery plan in accordance with Article 8(2) of Directive 2014/59/EU.
4. When drafting the timetable, the authorities involved or the group-level resolution authority when acting alone shall take into account the stipulations of Articles 16(3) and 17(2) of Directive 2014/59/EU on the need for simultaneous assessment of resolvability and suspension of the process to address substantive impediments, and shall ensure that the relevant time-limits provided in the timetable are adjusted accordingly.
5. The following aspects of the timetable shall be communicated from the group-level resolution authority to the Union parent undertaking:

- (a) an estimated date for the request of the information necessary for the drawing up of the group resolution plan and resolvability assessment in accordance with point (b) of paragraph 2;
- (b) an estimated date for the organisation of the discussion referred to in point (h) of paragraph 2, where relevant;
- (c) an estimated date for the communication referred to in point (m) of paragraph 2.

#### *Article 14*

##### *Preliminary dialogue in preparation of the group resolution plan and resolvability assessment*

1. The group-level resolution authority shall organise a preliminary dialogue with the resolution authorities of subsidiaries in order to:
  - (a) discuss preliminary proposal on the resolution strategy for the group, in particular on organising a possible resolution of the group either through resolution at the level of the Union parent undertaking (single-point-of-entry resolution) or through the break up and resolution of the subsidiaries (multiple-point-of-entry resolution);
  - (b) verify whether any of the information necessary for the development of the group resolution plan and the resolvability assessment is already available to any of the competent authorities, and share this information in accordance with Article 11(2) of Directive 2014/59/EU;
  - (c) determine the additional information to be requested by the Union parent undertaking;
  - (d) agree on any contributions needed from the resolution authorities of subsidiaries to the group-level resolution authority for the development of the group resolution plan and the resolvability assessment.
2. The group-level resolution authority along with the resolution authorities of subsidiaries may agree to involve other authorities and third country resolution authorities in the dialogue of paragraph 1.

#### *Article 15*

##### *Involvement of other authorities and third-country resolution authorities in the joint decision process*

1. The group-level resolution authority, in consultation with the resolution authorities of subsidiaries, shall organise the involvement of other authorities in the drawing up of the group resolution plan in accordance with the relevant steps of the joint decision timetable.
2. To involve third-country resolution authorities whose confidentiality regime has been assessed as equivalent pursuant to Article 4, the group-level resolution authority shall conclude specific agreements with these authorities. These agreements shall be communicated without undue delay to the resolution authorities of subsidiaries and shall have the following objectives:

- (a) to provide to group-level resolution authority with information on the third-country subsidiary or financial holding company or significant branch;
  - (b) to enable the group-level resolution authority to share this information with resolution authorities of subsidiaries and other authorities for the purpose of drawing up a group resolution plan and perform its resolvability assessment;
  - (c) to enable the group-level resolution authority to share information originated in another Member State, for the purposes of developing the group resolution plan and perform its resolvability assessment, with third country resolution authorities subject to Article 98(2) of Directive 2014/59/EU.
3. The group-level resolution authority shall keep the resolution authorities of subsidiaries and other authorities fully informed on the scope, nature and level of involvement of the third-country resolution authorities in the drawing up of the group resolution plan and resolvability assessment.

#### *Article 16*

##### *Information from the Union parent undertaking*

1. The group-level resolution authority shall request to the Union parent undertaking the information necessary in accordance with Article 11 of Directive 2014/59/EU, taking into account the outcome of the dialogue of Article 14.
2. The group-level resolution authority shall clearly communicate to the Union parent undertaking the entities of the group to which this information relates and applies, a specific reference date for the information to be provided, indicating the deadline by when the information shall be provided.
3. The Union parent undertaking shall provide the information requested to the group-level resolution authority in a timely manner and in any event by the deadline specified under paragraph 2.
4. The group-level resolution authority may ask additional information from the Union parent undertaking, both before transmitting information to the resolution authorities of subsidiaries and after that, when Article 17(2) applies.

#### *Article 17*

##### *Transmission of information from the group-level resolution authority*

1. The group-level resolution authority shall without delay transmit information received in accordance with Article 16 to the authorities referred to in Article 13(1) of Directive 2014/59/EU and shall invite them, within a specific deadline, to consider whether additional information is needed.
2. Any authority receiving information from the group-level resolution authority may request additional information within the deadline of paragraph 1, if the relevant authority deems the additional information to be relevant to the entity or the branch under its jurisdiction. In this case, Article 16(4) shall apply.

3. The transmission of information from the group-level resolution authority to the authorities referred in paragraph 2 shall not be deemed completed until the actual transmission of both the initial and the subsequent information.
4. The group-level resolution authority shall, taking into account the stipulations of paragraph 3, communicate to the resolution college the date that marks the start of the four-month period for the reach of the joint decision on the group resolution plan and resolvability assessment.
5. The group-level resolution authority and the authorities of Article 13(1) of Directive 2014/59/EU shall exchange additional information necessary to facilitate the drawing up of the group resolution plan and the performance of the resolvability assessment, subject to the confidentiality requirements laid down in this Directive and in accordance with Article 90 of this Directive.

#### *Article 18*

##### *Development and circulation of the draft group resolution plan and resolvability assessment*

1. The resolution authorities of subsidiaries shall provide to the group-level resolution authority their contributions to the group resolution plan and resolvability assessment in a timely manner and in any event by the deadline specified in the joint decision timetable pursuant to Article 13(2)(f).
2. The group-level resolution authority shall develop the draft group resolution plan in accordance with Article 12 of the Directive 2014/59/EU, taking into account any contributions submitted by the resolution authorities of subsidiaries.
3. The group-level resolution authority shall circulate the draft group resolution plan and resolvability assessment to the resolution authorities of subsidiaries, to other authorities and third-country resolution authorities in a timely manner and in any event by the deadline specified under Article 13(2)(g).

#### *Article 19*

##### *Consultation with other authorities and third-country resolution authorities*

1. Other authorities and third-country resolution authorities shall provide their comments on the draft group resolution plan and the resolvability assessment in accordance with the deadline agreed in Article 13(2)(h).
2. In particular, the relevant competent authorities referred to in Article 115 and 116 of Directive 2013/36/EU shall provide their views with regards to the assessment of the resolvability of the entities in their jurisdiction.
3. In case any of the authorities considers that there are substantive impediments to the resolvability of the group or any of its entities, it shall communicate its assessment to the group-level resolution authority in a timely manner and in any event by the deadline agreed in Article 13(2)(h).

4. The group-level resolution authority shall transmit to the resolution authorities of subsidiaries the comments received from the other authorities and the third-country resolution authorities, including comments on the assessment of the resolvability of the entities in their jurisdiction and any concerns expressed by these authorities.

#### *Article 20*

##### *Dialogue on the draft resolution plan and resolvability assessment*

1. The group-level resolution authority shall organise a dialogue on the draft group resolution plan and resolvability assessment with the resolution authorities of subsidiaries in a timely manner and in any event by the deadline specified in the joint decision timetable pursuant to Article 13(2)(j). The dialogue shall involve issues of assessment of the group's resolvability and shall facilitate the identification of possible substantive impediments to resolvability. For that purpose, the group-level resolution authority shall inform the resolution authorities of subsidiaries on its own assessment on the resolvability of the group and shall take all views expressed by resolution authorities, other authorities and third-country authorities into account.
2. Based on the dialogue of paragraph 1, the group-level resolution authority shall finalise the group resolution plan. Changes applied to the draft group resolution plan shall reflect the outcome of the dialogue.

#### *Article 21*

##### *Drafting the joint decision on group resolution plan and resolvability assessment*

1. The group-level resolution authority shall prepare a draft joint decision on the group resolution plan and resolvability assessment. The draft joint decision shall set out each of the following:
  - (a) the names of the group-level resolution authority and the resolution authorities of subsidiaries reaching the joint decision on the group resolution plan and resolvability assessment;
  - (b) the names of the resolution authorities and competent authorities consulted in the drawing up and maintenance of the group resolution plan and the performance of the resolvability assessment, meaning:
    - i. the names of the resolution authorities of significant branches and the resolution authorities of Member States where the entities referred to in Article 1(1)(c) and (d) of Directive 2014/59/EU are established;
    - ii. the names of the relevant competent authorities referred to in Articles 115 and 166 of Directive 2013/36/EU;
    - iii. the names of the third-country resolution authorities;
  - (c) the name of the Union parent undertaking and a list of group institutions covered by the group resolution plan and resolvability assessment, and to which the joint decision relates and applies;

- (d) the references to the applicable Union and national law relating to the preparation, finalisation and application of the joint decision on group resolution plan and resolvability assessment;
- (e) the date of the joint decision on the group resolution plan and resolvability assessment, and of any relevant update thereto;
- (f) the group resolution plan and resolvability assessment including any measures to address or remove substantive impediments to resolvability in accordance to Article 17(4), (5) and (6) and Article 18 of Directive 2014/59/EU, subject to which the joint decision is taken; in case the Union parent undertaking or any of its entities are in the process of implementing these measures, then information on the timeline for their implementation shall be also provided;
- (g) a summary of views expressed by the authorities consulted in the joint decision process on the group resolution plan and its resolvability assessment;
- (h) where the EBA has been consulted during the joint decision process, an explanation of any deviation from the advice of the EBA.

#### *Article 22*

##### *Reaching joint decision on the group resolution plan and resolvability assessment*

1. The group-level resolution authority shall send to the resolution authorities of subsidiaries without undue delay the draft joint decision on the group resolution plan and resolvability assessment setting an adequate and exclusive deadline within which the resolution authorities of subsidiaries shall provide their written agreement, which may be sent by electronic means, to this joint decision.
2. The resolution authorities of subsidiaries receiving the draft joint decision and not disagreeing with it shall provide to the group-level resolution authority their written agreement within the set deadline.
3. The final joint decision shall consist of the joint decision document plus the written agreements attached thereto and shall be provided to the resolution authorities of subsidiaries agreeing with the joint decision by the group-level resolution authority.
4. The group-level resolution authority shall communicate the outcome of the joint decision on the group resolution plan and resolvability assessment to the members and observers of the resolution college.

#### *Article 23*

##### *Communication of the joint decision and summary of the group resolution plan to the Union parent undertaking*

1. The group-level resolution authority shall provide the joint decision and a summary of the key elements of the group resolution plan to the management body of the Union parent undertaking in a timely manner and in any event by the deadline specified in the joint decision timetable pursuant to Article 13(2)(n). The group-level resolution authority shall confirm this communication to the resolution authorities of subsidiaries.



2. The group-level resolution authority may, where appropriate, discuss the joint decision on group resolution plan and resolvability assessment with the Union parent undertaking to explain the details of this decision.

## ***SECTION II***

### ***Disagreements and decisions taken in the absence of joint decision***

#### *Article 24*

##### *Decision process in the absence of joint decision*

1. In the absence of a joint decision between the group-level resolution authority and the resolution authorities of subsidiaries within the time period referred to in Article 13(4) of Directive 2014/59/EU, the decisions referred to in Article 13(5) and (6) of this Directive shall be evidenced in writing and shall be taken by the latest of the following dates:
  - (a) the date one month after the expiry of the time period referred to in Article 13(4) of Directive 2014/59/EU;
  - (b) the date one month after the provision of any advice by the EBA following a request for consultation in accordance with the third subparagraph of Article 13(4) of Directive 2014/59/EU;
  - (c) the date one month after any decision taken by the EBA in accordance with the second subparagraph of Article 13(5) or of Article 13(6) of Directive 2014/59/EU or any other date set by the EBA in such a decision.
2. Where the EBA has been consulted, the decisions taken in the absence of a joint decision shall include an explanation of any deviations from the advice of the EBA.
3. The relevant resolution authorities of subsidiaries shall communicate to the group-level resolution authority the individual decisions they take in the absence of a joint decision.
4. The group-level resolution authority shall notify to the other members of the resolution college the decisions referred to in paragraph 3 and its own decision on the group resolution plan.

#### *Article 25*

##### *Decision making process upon initial partial disagreement*

1. In the case of disagreement with the group resolution plan expressed by any of the resolution authorities of subsidiaries, the group-level resolution authority and the resolution authorities of subsidiaries which do not disagree pursuant to Article 13(6) of the Directive 2014/59/EU shall follow all relevant steps of Articles 21 to 23 for drafting, reaching and communicating the joint decision on the group resolution plan and resolvability assessment.
2. The joint decision taken on the group resolution plan and resolvability assessment shall be set out in a document that contains all of the items in Article 21, and in addition a

summary of views expressed by the resolution authorities of subsidiaries which were involved in the initial joint decision process on the group resolution plan and resolvability assessment. In particular, this summary shall include references to all issues having led to disagreement.

## *Article 26*

### *Drafting decisions taken in the absence of a joint decision*

1. The decision taken on the group resolution plan shall be set out in a document that contains all of the following items:
  - (a) the name of the group-level resolution authority;
  - (b) the name of the Union parent undertaking;
  - (c) references to the applicable Union and national law relating to the preparation, finalisation and application of the decision;
  - (d) the date of the decision;
  - (e) statement of the group-level resolution authority on its decision on the group resolution plan;
  - (f) the group resolution plan and resolvability assessment including any measures to address or remove substantive impediments to resolvability in accordance to Article 17(4), (5) and (6) of Directive 2014/59/EU, subject to which the decision is taken; in case the Union parent undertaking is in the process of implementing these measures, then information on the timeline for their implementation shall be also provided;
  - (g) the names of the resolution authorities, competent authorities and third-country resolution authorities involved and consulted in the joint decision process on the group resolution plan and resolvability assessment, along with a summary of the views expressed by these authorities and information on issues leading to disagreement;
  - (h) comments of the group-level resolution authority on the views expressed by the resolution authorities, competent authorities and third-country resolution authorities, in particular on issues leading to disagreement;
2. Resolution authorities drawing up individual resolution plans in the absence of a joint decision shall transmit to the group-level resolution authority a document that contains all of the following items:
  - (a) the name of the resolution authority taking the decision;
  - (b) the name of the entity(ies) under the jurisdiction of the resolution authority to which the decision relates and applies;
  - (c) references to the applicable Union and national law relating to the preparation, finalisation and application of the decision;
  - (d) the date of the decision;

- (e) statement of the resolution authority on its decision on the resolution plan for the entities under its jurisdiction;
- (f) the resolution plan and the assessment of resolvability of the entities under its jurisdiction including any measures to address or remove substantive impediments to resolvability in accordance to Article 17(4), (5) and (6) of Directive 2014/59/EU, subject to which the decision is taken; in case the entities are in the process of implementing these measures, then information on the timeline for their implementation shall be also provided;
- (g) the name of the group-level resolution authority along with explanations on the reasons for disagreement with the proposed group resolution plan and resolvability assessment.

### ***SECTION III***

#### ***Joint decision on measures to address substantive impediments to resolvability***

##### *Article 27*

##### *Suspension of the joint decision process on the group resolution plan and resolvability assessment*

1. When the group-resolution authority identifies substantive impediments to resolvability or assents to an opinion on identified substantive impediments expressed by any of the authorities having been consulted on the group resolution plan, including on the resolvability assessment, the group-level resolution authority shall declare the suspension of the joint decision process in accordance with Article 17(2) of Directive 2014/59/EU and shall notify its decision to all members of the resolution college.
2. The group-level resolution authority shall declare the recommencement of the joint decision process on the group resolution plan including the performance of its resolvability assessment, as soon as the joint decision process referred to in Article 18 of Directive 2014/59/EU with regard to taking measures to address or remove substantive impediments to resolvability has been completed.

##### *Article 28*

##### *Planning of the steps of the joint decision process on measures to address substantive impediments to resolvability*

1. Prior to the start of the joint decision process on measures to address or remove substantive impediments to resolvability, the group-level resolution authority and the resolution authorities of subsidiaries shall agree on a timetable of steps to be followed in that process (hereinafter the “joint decision timetable”). In the case of a failure to agree, the group-level resolution authority shall set the joint decision timetable after considering the views and any reservations expressed by the resolution authorities of subsidiaries.

2. The joint decision timetable shall include the following steps:
  - (a) preparation and circulation of the report on substantive impediments identified in accordance with in Article 18(2) of Directive 2014/59/EU by the group-level resolution authority in consultation with the consolidating supervisor and the EBA;
  - (b) submission of the report pursuant to Article 18(2) of Directive 2014/59/EU from the group-level resolution authority to the Union parent undertaking, the resolution authorities of subsidiaries, and the resolution authorities of jurisdictions in which significant branches are located, as well as to the third country resolution authorities as agreed by the members of the resolution college and in accordance with the principles set out in Article 15(2) and (3), as appropriate;
  - (c) communication of the Union parent undertaking's submissions in accordance with Article 18(3) of Directive 2014/59/EU and consultation between the group-level resolution authority and the resolution authorities of subsidiaries and other authorities on any observations and alternative measures to remedy the substantive impediments proposed by the Union parent undertaking pursuant to Article 18(3) of Directive 2014/59/EU, where appropriate;
  - (d) development of the draft joint decision on measures to address or remove substantive impediments to resolvability;
  - (e) finalisation of the joint decision on measures to address or remove substantive impediments to resolvability; and
  - (f) communication of the joint decision on measures to address or remove substantive impediments to resolvability.
3. The joint decision timetable shall be reviewed and updated by the group-level resolution authority in order to reflect the extension of the joint decision process in case the Union parent undertaking submits observations and proposes any alternative measures to address or remove substantive impediments to resolvability in accordance to Article 18(3) of Directive 2014/59/EU.

#### *Article 29*

##### *Consultation and communication of the report*

1. The group-level resolution authority shall prepare a draft report on substantive impediments to resolvability in accordance to Article 18(2) of Directive 2014/59/EU and it shall transmit it to the consolidating supervisor, the EBA, the competent authorities and the resolution authorities of the subsidiaries and of jurisdictions in which significant branches are located, , as well as to the third country resolution authorities as agreed by the members of the resolution college and in accordance with the principles set out in Article 15(2) and (3), as appropriate.
2. Comments and views received shall be considered by the group-level resolution authority for the purposes of the finalisation of the report. The group-level resolution authority shall provide full reasoning in relation to any deviation from a view or comment made by the EBA or by the consolidating supervisor.
3. Upon finalisation, the report shall be provided to the Union parent undertaking.

### *Article 30*

#### *Submission of observations of the Union parent undertaking and consultation with the authorities*

1. When the Union parent undertaking submits observations and proposes to the group-level resolution authority, within four months of the date of receipt of the report in accordance with Article 18(3) of Directive 2014/59/EU, alternative measures to remedy the substantive impediments to resolvability, the group-level resolution authority shall forward this information to the EBA, the resolution authorities of subsidiaries and the other authorities and third country resolution authorities, as appropriate, without undue delay and in any case within ten days.
2. While circulating the observations and alternative measures submitted by the Union parent undertaking, the group-level resolution authority shall communicate a deadline by when comments are to be submitted.
3. Where authorities do not provide their comments by the deadline specified in paragraph 3, the group-level resolution authority shall presume that these authorities do not have any comments on the observations and alternative measures submitted by the Union parent undertaking and shall proceed further.
4. The group-level resolution authority shall provide, as soon as possible and without undue delay, to the resolution authorities of subsidiaries any comments submitted by the other authorities within the deadline indicated in paragraph 2 and shall discuss with them the proposed measures to address substantive impediments to resolvability.
5. The group-level resolution authority and the resolution authorities of subsidiaries shall in addition discuss the potential impact of the proposed measures on all institutions that are part of the group, on all the Member States where the group operates, and on the Union as a whole.

### *Article 31*

#### *Drafting the joint decision on measures to address substantive impediments to resolvability*

1. The group-level resolution authority shall, taking into account the outcome of the dialogue under Article 30(3) and (4), prepare a draft joint decision on measures to address or remove substantive impediments to resolvability.
2. The draft joint decision shall set out each of the following items:
  - (a) the name of the Union parent undertaking and a list of the group institutions to which the joint decision relates and applies;
  - (b) the names of the group-level resolution authority and the resolution authorities of subsidiaries reaching the joint decision;
  - (c) the names of the relevant competent authorities and the names of the resolution authorities of significant branches that have been consulted on the resolvability of the group, on the measures to address or remove substantive impediments, and on

- the observations and alternative measures, if any, submitted by the Union parent undertaking;
- (d) the references to the applicable Union and national law relating to the preparation, finalisation and application of the joint decision;
  - (e) the date of the joint decision;
  - (f) a statement of the group-level resolution authority and the resolution authorities of subsidiaries on the reach of the joint decision on measures to address or remove substantive impediments;
  - (g) the measures pursuant to Article 17(5) and (6) of 2014/56/EU decided by the group-level resolution authority and the resolution authorities of subsidiaries, specifying the entities of the group to which the measures are addressed and the time period within which the respective institutions shall address these measures;
  - (h) when the measures proposed by the Union parent undertaking are not accepted or are partially accepted by the group-level resolution authority and the resolution authorities of subsidiaries, an explanation of how the measures proposed by the Union parent undertaking would not be able to remove the substantive impediments to resolvability and how the measures of point (g) are proportionate in removing the substantive impediments to resolvability;
  - (i) a summary of views expressed by the authorities consulted in the joint decision process;
  - (j) where the EBA has been consulted during the joint decision process, an explanation of any deviation from the advice of the EBA.

### *Article 32*

#### *Reaching the joint decision on measures to address substantive impediments to resolvability*

1. The group-level resolution authority shall send to the resolution authorities of subsidiaries without undue delay the draft joint decision on measures to address substantive impediments to resolvability setting a adequate and exclusive deadline within which the resolution authorities of subsidiaries shall provide their written agreement, which may be sent by electronic means, to this joint decision.
2. The resolution authorities of subsidiaries receiving the draft joint decision and not disagreeing with it shall provide to the group-level resolution authority their written agreement within the set deadline.
3. The final joint decision shall consist of the joint decision document plus the written agreements attached thereto and shall be provided to the resolution authorities of subsidiaries agreeing with the joint decision by the consolidating supervisor.
4. The group-level resolution authority shall communicate the reach of the joint decision on measures to address substantive impediments to resolvability to the members and observers of the college.

### *Article 33*

*Communication of the joint decision on measures to address substantive impediments to resolvability*

1. The group-level resolution authority shall provide the joint decision to the management body of the Union parent undertaking in a timely manner and in any event by the deadline specified in the joint decision timetable pursuant to Article 28(2)(f). The group-level resolution authority shall confirm this communication to the resolution authorities of subsidiaries.
2. When some of the measures taken in accordance to Article 17(5) and (6) of Directive 2014/59/EU are addressed to specific entities of the group, other than the parent, the resolution authorities of subsidiaries shall provide to the management bodies of the institutions under their jurisdiction the respective parts of the joint decision on measures to address substantive impediments to resolvability, in a timely manner and in any event by the deadline specified in the joint decision timetable pursuant to Article 28(2)(f).
3. The group-level resolution authority shall, where appropriate, discuss the joint decision on measures to address substantive impediments to resolvability with the Union parent undertaking to explain the details of the decision and its application.
4. The resolution authorities of subsidiaries shall, where appropriate, discuss the respective parts of the joint decision on measures to address substantive impediments to resolvability with the institutions under their jurisdictions to explain the details of the decision and its application.

*Article 34*

*Monitoring of the application of the joint decision on measures to address substantive impediments to resolvability*

1. The group-level resolution authority shall communicate the outcome of the discussion, if any, referred to in Article 33(3) to the resolution authorities of subsidiaries.
2. The resolution authorities of subsidiaries shall communicate the outcome of the discussion, if any, referred to in Article 33(4) to the group-level resolution authority.
3. The group-level resolution authority and the resolution authorities of subsidiaries shall monitor the application of the joint decision on measures to address substantive impediments to resolvability that are relevant to each of the institutions of the group for which they are respectively responsible.

**SECTION IV**

***Disagreements and decisions taken in the absence of joint decision on measures to address substantive impediments to resolvability***

*Article 35*

*Decision process in the absence of joint decision*

1. In the absence of a joint decision between the group-level resolution authority and the resolution authorities of subsidiaries within the time period referred to in Article 18(5) of Directive 2014/59/EU, the decisions referred to in Article 18(6) and Article 18(7) of this Directive shall be evidenced in writing and shall be taken by the latest of the following dates:
  - (a) the date one month after the expiry of the time period referred to in Article 18(5) of Directive 2014/59/EU, as applicable;
  - (b) the date one month after the provision of any advice by the EBA following a request for consultation in accordance with the second subparagraph of Article 18(5) of Directive 2014/59/EU;
  - (c) the date one month after any decision taken by the EBA in accordance with the third subparagraph of Article 18(6) or second subparagraph of Article 18(7) of Directive 2014/59/EU or any other date set by the EBA in such a decision.
2. Where the EBA has been consulted, the decisions taken in the absence of a joint decision shall include an explanation of any deviations from the advice of the EBA.
3. The relevant resolution authorities of subsidiaries shall communicate to the group-level resolution authority the individual decisions they take in the absence of a joint decision.
4. The group-level resolution authority shall communicate to the other members of the resolution college the decisions referred to in paragraph 3 and its own decision on measures to address substantive impediments to resolvability.

### *Article 36*

#### *Drafting decisions taken in the absence of joint decision*

1. In the absence of a joint decision on measures to address substantive impediments to resolvability, the decision taken by the group-level resolution authority shall be set out in a document that contains all of the following items:
  - (a) the name of the group-level resolution authority taking the decision;
  - (b) the name of the Union parent undertaking to which the decision relates and applies;
  - (c) references to the applicable Union and national law relating to the preparation, finalisation and application of the decision;
  - (d) the date of the decision;
  - (e) the measures pursuant to Article 17(5) and (6) of Directive 2014/56/EU decided by the group-level resolution authority at the group level and the time period within which these measures shall be addressed;
  - (f) when the measures proposed by the Union parent undertaking are not accepted or are partially accepted by the group-level resolution authority, an explanation of how the measures proposed by the Union parent undertaking are assessed as not able to remove the substantive impediments to resolvability and how the measures



- of point (e) would effectively reduce or remove the substantive impediments to resolvability;
- (g) the names of the resolution authorities, competent authorities and third-country resolution authorities involved and consulted in the joint decision process on measures to address substantive impediments to resolvability, along with a summary of the views expressed by these authorities and information on issues leading to disagreement;
  - (h) comments of the group-level resolution authority on the views expressed by the resolution authorities of subsidiaries, in particular on issues leading to disagreement.
2. Resolution authorities deciding on measures to be taken by subsidiaries at individual level in the absence of a joint decision shall transmit to the group-level resolution authority a document that contains all of the following items:
- (a) the name of the resolution authority taking the decision;
  - (b) the name of the entities under the jurisdiction of the resolution authority to which the decision relates and applies;
  - (c) references to the applicable Union and national law relating to the preparation, finalisation and application of the decision;
  - (d) the date of the decision;
  - (e) the measures pursuant to Article 17(5) and (6) of Directive 2014/56/EU decided by the resolution authority, specifying the entities of the group under its jurisdiction to which the measures are addressed and the time period within which the respective entities shall address these measures;
  - (f) when the measures proposed by the subsidiaries in accordance with Article 17(3) and (4) are not accepted or are partially accepted by the resolution authority of subsidiaries respectively, an explanation of how the measures proposed by these subsidiaries are assessed as not able to remove the substantive impediments to resolvability and how the measures of point (f) would effectively reduce or remove the substantive impediments to resolvability;
  - (h) the name of the group-level resolution authority along with explanations on the reasons for disagreement with the proposed by the group-level resolution authority measures to address substantive impediments to resolvability.

## **Chapter II**

# **JOINT DECISION PROCESS ON MINIMUM REQUIREMENTS FOR OWN FUNDS AND ELIGIBLE LIABILITIES**

### *Section I*

#### *Joint decision process*

##### *Article 37*

###### *Planning of the joint decision on MREL at consolidated, parent and each subsidiary level*

1. Prior to the start of the joint decision on MREL at consolidated, parent and each subsidiary level, the group-level resolution authority and the resolution authorities of subsidiaries shall agree on a timetable of steps to be followed in that process (hereinafter “MREL joint decision timetable”). In the case of disagreement, the group-level resolution authority shall set the MREL joint decision timetable after considering the views and reservations expressed by the resolution authorities of subsidiaries.
2. For the purpose of taking in parallel the joint decision on minimum requirements with the development and maintenance of the group resolution plan as required by Article 45(15) of Directive 2014/59/EU, the MREL joint decision timetable shall be organized taking into account the timetable for the joint decision on group resolution plan and resolvability assessment. In particular, the group-level resolution authority and the resolution authorities of subsidiaries shall consider that the four-month period for the reach of the MREL joint decision starts at the same time as the joint decision on group resolution plan and resolvability assessment.
3. The MREL joint decision timetable shall be updated on a regular basis and shall include at least the following steps:
  - (a) proposal of the group-level resolution authority on the MREL at consolidated and parent entity level to the resolution authorities of subsidiaries, and to the consolidating supervisor;
  - (b) proposal of resolution authorities of subsidiaries on the MREL for the entities under their jurisdiction at individual level to the group-level resolution authority and the respective competent authorities;
  - (c) dialogue between the group-level resolution authority and the resolution authorities of subsidiaries on the proposed MREL at consolidated, parent and each subsidiary level, , as well as with the resolution authorities of jurisdictions where significant branches are established and with the third country resolution authorities as agreed by the members of the resolution college and in accordance with the principles set out in Article 15(2) and (3), as appropriate;
  - (d) preparation and submission by the group-level resolution authority of the draft joint decision on MREL at consolidated, parent and each subsidiary level to the resolution authorities of subsidiaries;

- (e) consultation on the draft joint decision on MREL at consolidated, parent and each subsidiary level with the Union parent undertaking and the subsidiaries of the group, where required by the legislation of a Member State;
  - (f) reaching the joint decision on MREL at consolidated, parent and each subsidiary level;
  - (g) communication of the joint decision on MREL at consolidated, parent and subsidiary level to all group entities, including the Union parent undertaking.
4. The timetable shall:
- (a) reflect the scope and complexity of each step of the joint decision process;
  - (b) take into account the timetable of other joint decisions organised within the resolution college;
  - (c) take into account, to the extent possible, the timetable of other joint decisions organised within the relevant supervisory college, in particular the timetable of the joint decisions on institution-specific prudential requirements in accordance to Article 113 of Directive 2013/36/EU;
  - (d) be reviewed and reflect the outcome of the resolvability assessment, especially when this assessment results on measures to remove or address substantive impediments to resolvability that may have immediate effect on the minimum requirements for own funds and eligible liabilities at consolidated or entity level.
5. The group-level resolution authority and the resolution authorities of subsidiaries shall communicate to the institutions of the group for which they are respectively responsible an indicative date for the consultation referred to in paragraph 2(d) on the aspects of the draft joint decision documents insofar as these institutions are concerned.
- The group-level resolution authority and the resolution authorities of subsidiaries shall communicate to the institutions of the group for which they are respectively responsible an estimated date for the communication referred to in paragraph 2(g).

#### *Article 38*

##### *Proposal of the group-level resolution authority on MREL at consolidated and Union parent undertaking level*

1. The group-level resolution authority shall communicate to the resolution authorities of subsidiaries and the consolidating supervisor its proposal on:
  - (a) the minimum requirement for own funds and eligible liabilities to be met, at all times, by the Union parent undertaking, unless use of waiver has been granted in accordance with Article 45(11) of Directive 2014/59/EU; and
  - (b) the minimum requirement for own funds and eligible liabilities applied at consolidated level;
2. The group-level resolution authority shall support the proposal referred to in paragraph 1 by reasoning especially with regards to the assessment criteria referred to in Article 45(6)(a) to (f) of Directive 2014/59/EU.

3. The group-level resolution authority shall indicate a deadline by when comments, which shall be fully reasoned and in writing, from the consolidating supervisor are to be submitted, especially with regards to the assessment criteria referred to in Article 45(6)(a) to (f) of Directive 2014/59/EU. When the consolidating supervisor does not provide any comments by this deadline, the group-level resolution authority shall presume that the consolidating supervisor does not have any comments on its proposal under paragraph 1.
4. The group-level resolution authority shall provide as soon as possible to the resolution authorities of subsidiaries any comments submitted by the consolidating supervisor within the deadline indicated in paragraph 3.

#### *Article 39*

##### *Proposal of the resolution authorities of subsidiaries on MREL at subsidiary level*

1. The resolution authorities of subsidiaries shall communicate to the group-level resolution authority and the respective competent authorities their proposal on the minimum requirement for own funds and eligible liabilities to be met, at all times, by the group's subsidiaries on an individual basis, unless use of waiver has been granted in accordance to Article 45(12) of Directive 2014/59/EU.
2. The resolution authorities of subsidiaries shall support the proposal referred to in paragraph 1 by reasoning especially with regards to the assessment criteria referred to in Article 45(6)(a) to (f) of Directive 2014/59/EU.
3. The resolution authorities of subsidiaries shall agree with the group-level resolution authority and indicate a deadline by when written and fully reasoned comments from the competent authorities in their jurisdiction are to be submitted, especially with regards to the assessment criteria referred to in Article 45(6)(a) to (f) of Directive 2014/59/EU. When the competent authorities do not provide any comment by this deadline, the resolution authorities of the subsidiaries shall presume that these competent authorities do not have any comments on the respective proposals under paragraph 1.
4. The resolution authorities of subsidiaries shall provide as soon as possible to the group-level resolution authority any comments submitted by the competent authorities within the deadline indicated in paragraph 3.

#### *Article 40*

##### *Dialogue on the proposed MREL at consolidated, parent and each subsidiary level*

1. The group-level resolution authority shall organise a dialogue with the resolution authorities of subsidiaries on the proposed MREL at consolidated, parent and each subsidiary level.
2. The group-level resolution authority and the resolution authorities of subsidiaries shall discuss the reconciliation of the proposed MREL at consolidated level with the proposals at the parent and each subsidiary level.

### *Article 41*

#### *Drafting the joint decision on MREL at consolidated, parent and each subsidiary level*

1. The group-level resolution authority shall prepare a draft joint decision on MREL at consolidated, parent and each subsidiary level, taking into account the use of waivers, if any, under Article 45(11) or (12). The draft joint decision shall set out each of the following:
  - (a) the names of the group-level resolution authority and the resolution authorities of subsidiaries reaching the joint decision on the MREL at consolidated, parent and each subsidiary level;
  - (b) the names of the consolidating supervisor and other competent authorities that have been consulted;
  - (c) the name of the Union parent undertaking and a list of group's institutions to which the joint decision relates and applies;
  - (d) the references to the applicable Union and national law relating to the preparation, finalisation and reach of the joint decision. In particular, references to any additional criteria provided by the Member States on the basis of which the minimum requirement for own funds and eligible liabilities shall be determined;
  - (e) the date of the draft joint decision, and of any relevant update thereto;
  - (f) the minimum requirement on own funds and eligible liabilities at consolidated level, and a deadline to reach that level, where applicable, along with appropriate reasoning for setting the minimum requirement on own funds and eligible liabilities at this level having regard to the assessment criteria criteria referred to in Article 45(6)(a) to (f) of Directive 2014/59/EU;
  - (g) the minimum requirement on own funds and eligible liabilities at the level of the Union parent undertaking, unless use of waivers in accordance to Article 45(11) is granted, and a deadline to reach that level, where applicable, along with appropriate reasoning for setting the minimum requirement on own funds and eligible liabilities at this level having regard to the assessment criteria criteria referred to in Article 45(6)(a) to (f) of Directive 2014/59/EU;
  - (h) the minimum requirement on own funds and eligible liabilities at each group' subsidiary on an individual basis, unless use of waiver in accordance to Article 45(12) has been granted, and a deadline to reach that level, where applicable, along with appropriate reasoning for setting the minimum requirement on own funds and eligible liabilities at this level having regard to the assessment criteria criteria referred to in Article 45(6)(a) to (f) of Directive 2014/59/EU;
2. When the decision that relates to the minimum requirement on own funds and eligible liabilities provides that this is partially met at consolidated or individual level for the Union parent undertaking or any of the group's subsidiaries through contractual bail-in instruments, then the decision shall include details demonstrating the satisfaction of the resolution authorities that the instruments qualifies as a contractual bail-in instruments in accordance to the criteria set in Article 45(14) of Directive 2014/59/EU.

3. The group-level resolution authority shall provide the draft joint decision to the resolution authorities of subsidiaries in a timely manner and in any event by the deadline specified in the MREL joint decision timetable pursuant to Article 37(3)(d) inviting them to submit their fully reasoned comments in writing within an exclusively set deadline, after the expiry of which the group-level resolution authority shall presume consent of the authorities consulted.
4. Taking into account the comments expressed during consultation the group-level resolution authority shall prepare the final draft joint decision in accordance with paragraphs 1 and 2.

#### *Article 42*

##### *Reaching joint decision on MREL at consolidated, parent and each subsidiary level*

1. The group-level resolution authority shall send to the resolution authorities of subsidiaries without undue delay the draft joint decision on MREL at consolidated, parent and each subsidiary level setting an adequate and exclusive deadline within which the resolution authorities of subsidiaries shall provide their written agreement, which may be sent by electronic means, to this joint decision.
2. The resolution authorities of subsidiaries receiving the draft joint decision and not disagreeing with it shall provide to the group-level resolution authority written agreement, within the set deadline.
3. The final joint decision shall consist of the joint decision document plus the written agreements attached thereto and shall be provided to the resolution authorities of subsidiaries agreeing with the joint decision by the consolidating supervisor.
4. The group-level resolution authority shall communicate the reach of the joint decision on MREL at consolidated, parent and each subsidiary level to the members and observers of the college.

#### *Article 43*

##### *Communication of the joint decision on MREL at consolidated, parent and each subsidiary level*

1. The group-level resolution authority shall provide the joint decision on MREL at consolidated, parent and each subsidiary level to the management body of the Union parent undertaking in a timely manner and in any event by the deadline specified in the joint decision timetable pursuant to Article 37(3)(g). The group-level resolution authority shall confirm this communication to the resolution authorities of subsidiaries.
2. The resolution authorities of subsidiaries shall provide to the management bodies of the institutions under their jurisdiction the respective parts of the joint decision on MREL at consolidated, parent and each subsidiary level, in a timely manner and in any event by the deadline specified in the joint decision timetable pursuant to Article 37(3)(g).

3. The group-level resolution authority shall, where appropriate, discuss the joint decision on MREL at consolidated, parent and each subsidiary level with the Union parent undertaking to explain the details of the decision and its application.
4. The resolution authorities of subsidiaries shall, where appropriate, discuss the respective parts of the joint decision on MREL at consolidated, parent and each subsidiary level with the institutions under their jurisdictions to explain the details of the decision and its application.

#### *Article 44*

##### *Monitoring of the application of the joint decision on MREL at consolidated, parent and each subsidiary level*

1. The group-level resolution authority shall communicate the outcome of the discussion referred to in Article 43(3) to resolution authorities of subsidiaries when the Union parent undertaking is required to take specific actions in order to meet the minimum requirement for own funds and eligible liabilities at consolidated or individual basis.
2. The resolution authorities of subsidiaries shall communicate the outcome of the discussion referred to in Article 43(4) to the group-level resolution authority when the group's subsidiaries under their jurisdiction are required to take specific actions in order to meet the minimum requirement for own funds and eligible liabilities at consolidated or individual basis.
3. The group-level resolution authority shall forward the outcome of the discussion referred to in paragraph 2 to the other resolution authorities of subsidiaries.
4. The group-level resolution authority and the resolution authorities of subsidiaries shall monitor the application of the joint decision on MREL at consolidated, parent and each subsidiary level, for all entities of the group subject to the joint decision and at consolidated level.

#### *Section II*

##### ***Disagreements and decisions taken in the absence of joint decision on MREL at consolidated, parent and each subsidiary level***

#### *Article 45*

##### *Decision process in the absence of joint decision*

1. In the absence of a joint decision on MREL at consolidated, parent and each subsidiary level between the group-level resolution authority and the resolution authorities of subsidiaries within the time period referred to in Article 45(9) or (10) of Directive 2014/59/EU, the decisions taken by the group-level resolution authority and by the resolution authorities of the subsidiaries shall be evidenced in writing and shall be taken by the latest of the following dates:
  - (d) the date one month after the expiry of the time period referred to in Article 45(9) or (10) of Directive 2014/59/EU, as applicable;

- (e) the date one month after the provision of any advice by the EBA following a request for consultation in accordance with the second subparagraph of Article 18(5) of Directive 2014/59/EU;
  - (f) the date one month after any decision taken by the EBA in accordance with the third subparagraph of Article 45(9) or fifth subparagraph of Article 45(10) of Directive 2014/59/EU or any other date set by the EBA in such a decision.
2. Where the EBA has been consulted, the decisions taken in the absence of a joint decision shall include an explanation of any deviations from the advice of the EBA.
  3. The relevant resolution authorities of subsidiaries shall communicate to the group-level resolution authority the individual decisions they take in the absence of a joint decision.
  4. The group-level resolution authority shall communicate to the other members of the resolution college the decisions referred to in paragraph 3 and its own decision on the minimum requirement on own funds and eligible liabilities at consolidated and parent entity level.

#### *Article 46*

##### *Joint decisions taken at each subsidiary level in the absence of a joint decision at consolidated level*

1. Notwithstanding the absence of a joint decision at consolidated or parent entity level in accordance to Article 45(9) of Directive 2014/59/EU, the group-level resolution authority and the resolution authorities of subsidiaries shall do everything within their power to reach a joint decision on the level of the minimum requirement of own funds and eligible liabilities to be applied to each respective subsidiary at an individual level.
2. This joint decision shall take into account the minimum requirement on own funds and eligible liabilities set at consolidated level by the group-level resolution authority, and shall follow all relevant steps of Articles 41 to 44 for drafting, reaching, communicating and monitoring the application of the joint decision on the level of the minimum requirement of own funds and eligible liabilities to be applied to each respective subsidiary at an individual level.

#### *Article 47*

##### *Drafting decisions taken in the absence of a joint decision*

1. The decision on the MREL at consolidated and parent entity level taken by the group-level resolution authority resolution plan shall be set out in a document that contains all of the following items:
  - (a) the name of the group-level resolution authority;
  - (b) the name of the Union parent undertaking;
  - (c) references to the applicable Union and national law relating to the preparation, finalisation and application of the decision. In particular, references to any additional criteria provided by the Member State, in which the parent undertaking



- is authorised, on the basis of which the minimum requirement for own funds and eligible liabilities are determined;
- (d) the date of the decision;
  - (e) the minimum requirement on own funds and eligible liabilities at consolidated level, and a deadline to reach that level, where applicable, along with appropriate reasoning for setting the minimum requirement on own funds and eligible liabilities at this level having regard to the assessment criteria referred to in Article 45(6)(a) to (f) of Directive 2014/59/EU.
  - (f) the minimum requirement on own funds and eligible liabilities at the level of the Union parent undertaking, unless use of waivers in accordance to Article 45(11) is granted, and a deadline to reach that level, where applicable, along with appropriate reasoning for setting the minimum requirement on own funds and eligible liabilities at this level having regard to the assessment criteria referred to in Article 45(6)(a) to (f) of Directive 2014/59/EU;
  - (g) the names of the resolution authorities of subsidiaries involved and consulted in the joint decision process, along with a summary of the views expressed by these authorities and information on issues leading to disagreement;
  - (h) comments of the group-level resolution authority on the views expressed by the resolution authorities of subsidiaries, in particular on issues leading to disagreement.
  - (i) when the decision that relates to the minimum requirement on own funds and eligible liabilities provides that this is partially met at consolidated or individual level for the Union parent undertaking through contractual bail-in instruments, then the decision shall include details demonstrating the satisfaction of the group-level resolution authority that the instruments qualify as a contractual bail-in instruments in accordance to the criteria set in Article 45(14) of Directive 2014/59/EU.
2. The resolution authorities of subsidiaries drawing up individual resolution plans in the absence of a joint decision shall transmit to the group-level resolution authority a document that contains all of the following items:
- (i) the name of the resolution authority of the subsidiary taking the decision;
  - (j) the name of the group's subsidiaries under its jurisdiction to which the decision relates and applies;
  - (k) references to the applicable Union and national law relating to the preparation, finalisation and application of the decision. In particular, references to any additional criteria provided by the Member States, in which these group's subsidiaries are authorised, on the basis of which the minimum requirement for own funds and eligible liabilities are determined;
  - (l) the date of the decision;
  - (m) the minimum requirement on own funds and eligible liabilities to be applied to the subsidiary at individual level, and a deadline to reach that level, where applicable, along with appropriate reasoning for setting the minimum requirement on own funds and eligible liabilities at this level having regard to the assessment criteria

- mentioned in points (a) to (f) of paragraph (6) of Article 45 of Directive 2014/59/EU;
- (n) the name of the group-level resolution authority involved and consulted in the joint decision process, along with a summary of the views it expressed and information on issues leading to disagreement;
  - (o) comments of the resolution authority of the subsidiary on the views expressed by the group-level resolution authority, in particular on issues leading to disagreement;
  - (p) when the decision that relates to the minimum requirement on own funds and eligible liabilities provides that this is partially met at the subsidiary level through contractual bail-in instruments, then the decision shall include details demonstrating the satisfaction of the respective resolution authority of the subsidiary that the instruments qualify as a contractual bail-in instruments in accordance to the criteria set in paragraph 14 of Article 45 of Directive 2014/59/EU.

### ***TITLE III***

### ***CROSS-BORDER GROUP RESOLUTION***

#### ***Chapter 1***

#### ***DECISION ON THE NEED FOR A GROUP RESOLUTION SCHEME UNDER ARTICLE 91 AND 92 OF DIRECTIVE 2014/59/EU***

##### ***Article 48***

##### ***Process for deciding on the need for a group resolution scheme***

The process for the assessment of the need for a group resolution scheme shall comprise the following steps to be implemented as agreed between the group-level resolution authority and the resolution authorities of subsidiaries:

- (a) dialogue, where possible, on the situation of the failing institution and the need for a group resolution scheme and for mutualising financing arrangements;
- (b) draft assessment or draft decision on the need for a group resolution scheme by the group-level resolution authority and communication to the members of the resolution college and to the observers, where appropriate;
- (c) consultation on the draft assessment or draft decision on the need for a group resolution scheme among the members of the resolution college;
- (d) finalisation of the assessment or the decision on the need for a group resolution scheme and communicating to the resolution college.

## Article 49

### *Dialogue on the need for a group resolution scheme*

1. After receiving the notification referred to in paragraph (3) (a) or (h) of Article 81 of Directive 2014/59/EU, the group-level resolution authority shall endeavour to organise a dialogue in accordance with this article involving at least those members of the college who are the resolution authorities of the subsidiaries.
2. For the purpose of paragraph 1, the group-level resolution authority shall transmit to the members referred to in the previous paragraph:
  - (a) the notification received;
  - (b) its proposal on the topics referred to in paragraph 3;
  - (c) the deadline by which the dialogue should be concluded.
3. The dialogue shall concern the following:
  - (a) whether the conditions of resolution as referred to in paragraph (1) (c) of Article 32 of Directive 2014/59/EU are satisfied for the relevant Union parent undertaking or subsidiary entity;
  - (b) whether, in accordance with Articles 91 or 92 of Directive 2014/59/EU, the resolution of the subsidiary, or of the Union parent undertaking respectively, would have group dimensions and would require the drawing up of a group resolution scheme;
  - (c) whether the financing plan shall be based on mutualisation of national financing arrangements in accordance with Article 107 of Directive 2014/59/EU.

## Article 50

### *Preparation and communication of the draft assessment or draft decision on the need for a group resolution scheme*

1. For the purposes of assessing the need for a group resolution scheme in the context of paragraphs (1) to (4) of Article 91 of Directive 2014/59/EU, the group-level resolution authority shall prepare its draft assessment following receipt of the notification referred to in paragraph (1) of Article 91.
2. For the purposes of deciding that a group resolution scheme is not needed as referred to in paragraph (2) of Article 92 of Directive 2014/59/EU, the group-level resolution authority shall prepare its draft decision after assessing that the Union parent undertaking meets the conditions referred to in Articles 32 and 33 of that Directive and that none of the conditions referred to in paragraph (1) (a) – (d) of Article 92 of Directive 2014/59/EU applies.
3. The group-level resolution authority shall take into account the outcome of the dialogue, where applicable, for preparing the draft assessment or decision.
4. The group-level resolution authority shall provide its draft assessment or decision to the members of the resolution college, and to the observers where appropriate, setting out:
  - (a) for the purposes of Article 91 of Directive 2014/59/EU, its opinion on the likely impact of the notified resolution actions or of the insolvency

- measures on the group and on group entities in other Member States, and, in particular, whether the resolution actions or the other measures would make it likely that the conditions for resolution would be satisfied in relation to a group entity in another Member State;
- (b) for the purposes of Article 92 of Directive 2014/59/EU, its opinion on the non-applicability of any of the conditions for a group resolution scheme as referred to in paragraph (1) of Article 92 of Directive 2014/59/EU taking due account of conditions referred to in paragraph 2 of that article; and
  - (c) its opinion on the need to mutualize the financing arrangements for the purposes of the financing plan in accordance with Article 107 of Directive 2014/59/EU.
5. The group-level resolution authority shall annex to its draft assessment or decision all relevant material information, which it has received under Articles 81 to 82, 91 or 92 of Directive 2014/59/EU and shall set a clear deadline by which the members of the college and observers involved shall express concerns or views divergent from the draft assessment.
6. The draft assessment shall be prepared and communicated by the group-level resolution authority, without undue delay and, where applicable, respecting the time limit set out in Article 91 of Directive 2014/59/EU.

#### *Article 51*

##### *Consultation on the draft assessment or decision on the need for a group resolution scheme*

1. The members and observers of the resolution college receiving the draft assessment or draft decision shall express their material diverging views or concerns, if any.
2. Material divergent views and concerns shall be clearly set out in writing, which may be submitted in electronic format, and shall be fully reasoned.
3. Material divergent views and concerns shall only be expressed, without undue delay recognising the urgency of the situation and by the set deadline.
4. Upon expiry of the deadline, the group-level resolution authority shall presume consent of the members and observers who did not express any material divergent views or concerns.

#### *Article 52*

##### *Finalisation of the assessment or the decision on the need for a group resolution scheme*

1. Upon expiry of the consultation deadline, and without undue delay taking into account the time limits of Article 91 of Directive 2014/59/EU, where applicable, the group-level resolution authority shall finalise its assessment or decision on the need for a group resolution scheme. The final assessment or decision shall also include an opinion on the need to mutualise national financing arrangements for the purposes of the financing plan in accordance with Article 107 of Directive 2014/59/EU and it shall take into

- account concerns and divergent views expressed during consultation with amendments as appropriate.
2. The group-level resolution authority shall provide reasoning for the assessment or for the decision that a group resolution scheme is not needed, only if material divergent views and concerns had been raised during consultation.
  3. The group-level resolution authority shall also fully reason any deviation on the final assessment or decision from the EBA's input, if the EBA has been consulted.
  4. The group-level resolution authority shall, without undue delay, communicate its final assessment or decision to the members of the resolution college and to the observers involved in the process.
  5. The group level resolution authority, which considers that a group resolution scheme is needed, may omit paragraph 4 and directly apply Article 53 on preparing the group resolution scheme.

**Chapter 2:**  
**JOINT DECISION PROCESS ON THE GROUP RESOLUTION SCHEME**  
*Section I: Group resolution scheme and joint decision*

*Article 53*

*Process of the joint decision on the group resolution scheme*

The process to reach a joint decision on the group resolution scheme which is either proposed under paragraph (4) of Article 91 or paragraph (1) of Article 92 of Directive 2014/59/EU shall comprise the following steps to be implemented as agreed between the group-level resolution authority and the resolution authorities of subsidiaries:

- (a) preparation of the draft group resolution scheme by the group-level resolution authority and communication to the resolution college members, and to the observers as it deems appropriate;
- (b) consultation on the draft group resolution scheme at least among the resolution authorities of the entities covered by the group resolution scheme;
- (c) preparation and communication of the joint decision on the group resolution scheme, by the group-level resolution authority to the resolution authorities of the subsidiaries covered by the group resolution scheme;
- (d) finalisation of the joint decision on the group resolution scheme pursuant to paragraph (7) of Article 91 or paragraph (3) of Article 92;
- (e) communication of the outcome of the joint decision to the resolution college members and to the observers, if appropriate.

*Article 54*

*Preparation and communication of the draft group resolution scheme*

1. The draft group resolution scheme shall be drawn up by the group-level resolution authority in accordance with paragraph (6) of Article 91 of Directive 2014/59/EU and shall include the following elements:
  - (a) a description of the measures, if any, that that need to be implemented in order to ensure that the group resolution scheme can be operationalized;
  - (b) a description of legal or regulatory preconditions to be fulfilled, if any, for carrying out the group resolution scheme;
  - (c) the timeframe for executing the group resolution scheme as well as the timing and sequencing of each resolution action to be undertaken;
  - (d) the allocation of tasks and responsibilities for the coordination of the resolution actions, external communication and internal communication to the members of the resolution college and contact information of the members of the resolution college.
  - (e) a financing plan, on the basis of Article 107 of Directive 2014/59/EU, as appropriate and taking into account the need for mutualisation of the financing arrangements.
2. For the purposes of paragraph (6) (a) of Article 91 of Directive 2014/59/EU, the group-level resolution authority shall ensure that the draft group resolution scheme includes:
  - (a) an explanation why an alternative option to the resolution plan, pursuant to Article 13 of Directive 2014/59/EU, is followed including, why the proposed actions are considered to more efficiently achieve the resolution objectives and principles referred to in Article 31 and 34 of Directive 2014/59/EU than the strategy and resolution actions provided for in the resolution plan;
  - (b) identification and description of elements of the group resolution scheme which depart from the resolution plan referred to in Article 13 of Directive 2014/59/EU.
3. The group-level resolution authority shall provide the draft resolution scheme to the members of the resolution college and observers, where appropriate, without undue delay and with a deadline:
  - (a) for consultation in accordance with Article 55;
  - (b) for finalising the joint decision on the group resolution scheme in accordance with Article 57.
4. The group-level resolution authority shall develop and communicate the draft group resolution scheme without undue delay and taking into account the time limits of Article 91 of Directive 2014/59/EU where applicable.
5. The group-level resolution authority shall ensure that the deadlines set out in paragraph 3 shall be adequate for the authorities to express their views taking however into account the time limits of Article 91 of Directive 2014/59/EU where applicable.

#### *Article 55*

#### *Consultation on the group resolution scheme*

1. The members and observers of the college receiving the draft group resolution scheme in accordance with Article 54 (3) shall express their material diverging views or concerns, if any.
2. Material divergent views and concerns may address all aspects of the draft group resolution scheme, including:
  - (a) impediments, if any, in national law or otherwise to carrying out the group resolution scheme in accordance with the strategy and resolution actions;
  - (b) any relevant updates to the information submitted for the mutualisation of the financing arrangements that could impact carrying out the financing plan;
  - (c) the impact of the group resolution scheme or of the financing plan on the subsidiaries covered by the group resolution scheme in their respective Member State.
3. Material divergent views and concerns shall be clearly set out in writing, which may include electronic format, and shall be fully reasoned.
4. Material divergent views and concerns shall only be expressed, without undue delay recognising the urgency of the situation and by the deadline set in Article 54 (3).
5. Upon expiry of the deadline, the group-level resolution authority shall presume consent of the members and observers who did not express divergent views or concerns.

#### *Article 56*

##### *Preparation and communication of the joint decision on the group resolution scheme*

1. Upon expiry of the consultation deadline, the group-level resolution authority shall prepare the draft joint decision on the group resolution scheme in accordance with Articles 91, 92 and, as applicable, Article 107 of Directive 2014/59/EU.
2. For the draft joint decision, the group-level resolution authority shall consider and take into account all concerns and divergent views expressed during the consultation and it shall make amendments to the group resolution scheme as appropriate.
3. The group-level resolution authority shall at least justify and reason:
  - (a) how it has handled the material divergent views and concerns expressed by the resolution authorities of the subsidiaries covered by the group resolution scheme for the purposes of the draft joint decision;
  - (b) why and to what extent the group resolution scheme deviates from any EBA input, if a consultation with the EBA has been held.
4. The draft joint decision shall include the following elements:
  - (a) the names of the group-level resolution authority and the resolution authorities responsible for the subsidiaries covered by the group resolution scheme;
  - (b) the name of the Union parent undertaking and a list of all institutions within the group to which the group resolution scheme relates to and applies;
  - (c) the references to the applicable Union and national law relating to the preparation, finalisation and application of the joint decision on the group resolution scheme;
  - (d) the date of the draft joint decision on the group resolution scheme;

- (e) the final group resolution scheme, including any reasoning if needed in accordance with paragraph 3.
5. The group-level resolution authority shall send the draft joint decision on the group financing scheme without undue delay to the resolution authorities of the entities covered by the group resolution scheme setting them a deadline by which they shall provide their agreement to the joint decision on the group resolution scheme.

#### *Article 57*

##### *Finalising the joint decision on the group resolution scheme*

1. The resolution authorities receiving the joint decision in accordance with Article 56 (5) and not disagreeing with it shall provide to the group-level resolution authority proof of their agreement, which may be sent by electronic means, by the established deadline. The proof of agreement may be sent by electronic means.
2. The final joint decision on the group resolution scheme shall consist of the final joint decision plus the proofs of agreement attached thereto.

#### *Article 58*

##### *Communication of the joint decision to the college*

1. The final joint decision shall be transmitted without undue delay by the group-level resolution authority to the resolution authorities of the subsidiaries covered by the group resolution scheme.
2. At least a summary of the joint decision on the group resolution scheme shall be communicated by the group-level resolution authority to members and observers of the resolution college.

## ***Section II***

### ***Disagreements and decisions taken in the absence of joint decision***

#### *Article 59*

##### *Notification in case of disagreement or departure from the group resolution scheme*

1. In the case that a resolution authority disagrees with or departs from the group resolution scheme proposed by the group-level resolution authority or considers that they need to take independent resolution actions or measures for reasons of financial stability pursuant to paragraph (8) of Article 91 and paragraph (4) of Article 92 of Directive 2014/59/EU, that resolution authority shall notify the group-level resolution authority of the disagreement without undue delay.
2. The notification referred to in paragraph 1 shall include the following:
  - (a) the name of the resolution authority;
  - (b) the name of the entity under the jurisdiction of the resolution authority;
  - (c) the date of the notification;
  - (d) the name of the group-level resolution authority;



- (e) a statement of the resolution authority on its disagreement, or departure from the group resolution scheme, or of its consideration that independent resolution actions or measures are appropriate for the entity(ies) under its jurisdiction;
  - (f) detailed reasoning of the element(s) of the group resolution scheme with which the resolution authority is in disagreement, or from which it departs, or an explanation of why it considers that independent resolution action or measures are appropriate;
  - (g) detailed description of the actions or measures that the resolution authority will take, including the timing and sequencing of action(s).
3. The group-level resolution authority shall notify the other members of the resolution college of the notification(s) referred to in paragraph 2.

#### *Article 60*

##### *Decision making process between non disagreeing resolution authorities*

1. Resolution authorities which do not disagree pursuant to paragraph (9) of Article 91 and paragraph (5) of 92 of the Directive 2014/59/EU shall apply Article 57 and 58 and conclude a joint decision among themselves.
2. This joint decision shall contain all elements referred to in Articles 57 and 58 in addition to the information on disagreement received in accordance with Article 59 (2).

## TITLE IV FINAL PROVISIONS

#### *Article 61*

##### *Entry into force*

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Commission*  
*The President*

*[For the Commission*

*On behalf of the President*

## 5. Accompanying documents

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### 5.1 Draft Impact Assessment Analysis

#### 5.1.1 Introduction

Article 88(7) of the Banking Recovery and Resolution Directive (BRRD) mandates the EBA to develop draft Regulatory Technical Standards (RTS) to specify the operational functioning of the resolution colleges for the performance of the tasks referred to in paragraph 1 of this Article.

As per Article 10(1) of the EBA Regulation (Regulation (EU) No 1093/2010 of the European Parliament and of the Council), any draft regulatory or implementing technical standards developed by the EBA – when submitted to the EU Commission for adoption- shall be accompanied by an Impact Assessment (IA) which analyses ‘the potential related costs and benefits’ and is included as annex in the submitted technical standards. In principle, such annexes provide an overview of the findings as regards the problem identification, the options considered from the regulators while developing the technical standards and eventually the associated impact arising from these policy options.

A cost-benefit analysis is also part of the IA described in the present Consultation Paper. The structure of the cost-benefit analysis follows the one of the draft regulatory technical standards meaning that the options analysed are organised in three main sections: i) operational organisation aspects of the resolution colleges, ii) resolution planning joint decisions, and iii) decisions on the need for, and the joint decision on the group resolution schemes.

In being compliant with the proportionality principle when assessing the problems addressed by the regulation, the IA is mostly qualitative and addresses the issue at high level.

#### 5.1.2 Problem definition

The lack of operational procedures and guidance for the resolution authorities in setting up resolution colleges and in assessing the confidentiality provisions of third country resolution authorities and agreeing on their involvement in the work of the resolution college increases the risk of operational malfunctions in resolution colleges, and threatens the establishment of relations of trust between its members. It also creates un-level playing field in the treatment of third country resolution authorities undermining their possible involvement in the activities of the resolution college.

The absence of clear provisions covering various aspects of the resolution planning joint decisions processes may have consequences in their smooth completion

The EBA aims to achieve the maximum possible level of harmonisation by delivering the draft RTS in order to establish a level-playing field, prevent regulatory arbitrage opportunities, enhance convergence in supervisory and resolution functions and reinforcing legal clarity. Solving these

problems should also help resolution colleges to operate efficiently and effectively by reducing the compliance burden on the resolution authorities and competent authorities, and avoid overlapping efforts put by different authorities in addressing the same issues.

### **5.1.3 Objectives**

This RTS seeks to address the following core policy issues:

- (1) Facilitating the establishment of resolution colleges by providing common procedures for the identification of its members and observers, including the assessment of confidentiality provisions of third country resolution authorities, and for arranging and agreeing on other operational aspects of resolution college function, such as:
  - a. determining the main elements of the written arrangements and procedures for the functioning of the resolution colleges, including the process of developing, agreeing and updating these written arrangements;
  - b. setting the process of exchanging information while performing different tasks within the resolution college framework;
- (2) Ensuring uniform conditions of application of decisions taken jointly by the group-level resolution authority and resolution authorities of subsidiaries while in the process of resolution planning, which is an essential component of effective resolution.
- (3) Ensuring uniform conditions of application when assessing the need for a group resolution scheme by the group-level resolution authority and resolution college members;
- (4) Ensuring uniform conditions of application of decisions taken by the group-level resolution authority and resolution authority of subsidiaries while in resolution for the group resolution scheme and in coordinating the use of financing arrangements, where necessary;
- (5) Ensuring that decisions taken by the group-level resolution authority and the resolution authorities of subsidiaries jointly or sub-jointly or on a unilateral basis, in resolution planning and in resolution, are drafted in such way that deliver clarity on the members of the resolution college reaching the joint decision, on the members of the resolution college that have been consulted and on the rationale of the decisions taken, as appropriate.

### **5.1.4 Options considered**

The mandate for the development of the draft RTS on Resolution Colleges comes from the BRRD which is in the process of being implemented by the Member States. The requirement of setting up and operating resolution colleges will provide a framework to the resolution and competent authorities to plan for and deal with the resolution of cross-border institutions. Given that there is no previous experience or status quo on resolution colleges, the main policy options to be considered in these draft RTS was based on the experience that competent authorities have gained from the organisation and functioning of supervisory colleges, recognising the differences in membership, tasks and responsibilities between supervisory and resolution colleges. Thus, the main options in developing the draft RTS on resolution colleges are summarised below:

- Option 1: consider both the EU regulatory framework covering supervisory colleges function and current practices followed by well-established EEA supervisory colleges;

- Option 2: rely on the experience gained from the Crisis Management Groups (CMGs) and Cross Border Stability Groups (CBSGs), where these have been established for EEA banking group based on the requirements introduced by the FSB standards<sup>3</sup>.
- Option 3: combination of option 1 and 2.

The implementation of option 3 would be the preferred solution to the identified problem as it carries the highest positive net impact arising from the enhanced efficiency of (a) leveraging on the existing EU experience and (b) enriching it with the internationally acclaimed standards. The implementation of option 1 and 2 would be of negligible positive impact which is lower though than the net impact implied in option 3. As the current impact assessment is carried out as high-level, there is no need for carrying out cost-benefit analysis for all three options, mainly because the preferred option was chosen on the basis of qualitative assessment. Thus, the following section is focusing on analysing the costs and benefits of specific options taken on the assumption of the preferred option.

#### 5.1.5 Cost-benefit analysis

The section below presents some detailed policy options that have been taken in drafting the technical standards on resolution colleges on the basis of option 3. For each policy option examined we present expected costs and benefits.

#### Section I – Operational organisation of resolution colleges

##### **a. Mapping of the members and observes of the resolution college**

##### Description of the policy option

With regards to the mapping of the resolution college the draft RTS require that this exercise is performed based on the mapping of the supervisory college which is expected to be undertaken in accordance to the RTS and ITS on supervisory colleges and its respective templates (e.g. Annex I of the ITS on supervisory colleges – Mapping Template) by the consolidating supervisor.

##### Costs

The main costs of the preferred policy option arise from the need to support the interaction and cooperation between the group-level resolution authority and the consolidating supervisor, especially in these Member States where the group-level resolution authority differs from the consolidating supervisor.

##### Benefits

The main benefits expected to arise by the specific policy option are the following:

- i. ensure consistency of practices followed by the supervisory and resolution colleges in the process of identifying members and observers, both in terms of approaches for the performance of the exercise as well as with regards to the treatment of third country supervisory and resolution authorities;

<sup>3</sup> Key Attributes of Effective Resolution Regimes for Financial Institutions (last update October 2014): [http://www.financialstabilityboard.org/wp-content/uploads/r\\_141015.pdf](http://www.financialstabilityboard.org/wp-content/uploads/r_141015.pdf)

- ii. reducing the cost needed for the performance of the mapping exercise, given that with the specific policy option the group-level resolution authority will leverage on the work performed already by the consolidating supervisor thus the expected cost will be marginal; and
- iii. ensure consistency of practices among various resolution colleges, thus reducing costs and administrative burden both for the group-level resolution authority and for the members and observers of the resolution college which expect to provide comments and feedback on the mapping of the resolution college.

## Section II – Resolution planning joint decisions

This section of the draft ITS covers three types of joint decisions taken while the resolution college is in the process of resolution planning: i) the joint decision on the development and maintenance of the group resolution plan, including the performance of the resolvability assessment, ii) joint decision on the measures to address substantive impediments to resolvability, iii) joint decisions on the level of minimum requirements for own funds and eligible liabilities (MREL) at each subsidiary, parent and at consolidated level. For the three types of resolution planning joint decisions the following policy options were considered and analysed:

### **b. Joint decision timetable**

#### Description of the policy option

The draft RTS specify cooperation between the group-level resolution authority and resolution authorities of subsidiaries in developing and organising the joint decision process, its steps and the timing of these steps, reflecting the scope and complexity of each joint decision, as well as potential links between different joint decisions taken by the resolution college and the supervisory college in going concern situations. The provisions of the draft RTS encourage resolution authorities to organise the respective timetables taking into account, to the extent possible, the timetables of joint decisions taken by supervisory colleges, and in particular the joint decisions on the assessment of the group recovery plan and the joint decision on capital under Pillar 2.

#### Costs

The main costs arising from the provisions of the RTS requiring the group-level resolution authority and the resolution authorities of subsidiaries to develop and agree together on timetables for the resolution planning joint decision relate to:

- i. the resources or (re-)allocation of resources needed for developing the above mentioned timetables and for getting consent from the involved resolution authorities; and
- ii. the continuous engagement of all the involved authorities to ensure that the timetables remain realistic, up-to-date and reflect the most recent findings that may arise during the joint decision process (e.g. identification of substantive impediments to resolvability will result in the need of updating the timetable of the joint decision on group resolution plan and resolvability assessment).

## Benefits

The main benefits expected to arise from these provisions of the draft RITS are the following:

- i. timely, appropriate and efficient planning of the joint decision process, allowing to all relevant resolution authorities the possibility to inform and reflect on the timeline;
- ii. allowing involved resolution and supervisory authorities to build up a better understanding of the resolution planning process and the interaction between the authorities and the Union parent undertaking; and
- iii. allowing the resolution and supervisory colleges the possibility to coordinate the timeline of the joint decisions organised under these framework, in order to ensure that interaction and information exchange is organised in the most appropriate way, both in terms of transparency as well as in terms of timing.

### **c. Drafting of the joint decision documents and decision taken in the absence of joint decision**

#### Description of the policy option

The draft RTS foresee that the group-level resolution authority is the authority responsible for drafting the joint decision document based on a list of elements noted in the regulatory standards. Especially in the case of the joint decision on MREL at subsidiary, parent and at consolidated level, the drafting of the joint decision document is based on contributions submitted by the resolution authorities of subsidiaries which they should also meet some specific elements as per the RTS requirements. The elements envisaged in the respective articles of the draft RTS with regards to the joint decision documents depend on two main factors: i) whether there is a requirement derived from the Level 1 text for the joint decision to be a fully reasoned joint decision, and ii) whether the decision is taken in the absence of a joint decision (in that case the decisions shall provide information on the reasons that led to disagreement).

#### Costs

The main costs expected to arise from the preferred policy option with regards to the drafting of the joint decisions or decisions taken in the absence of a joint decision are relating to the:

- i. Costs in terms of resources and the supervisory skills needed to draft the joint decision documents or decisions taken in the absence of a joint decision by following the requirements of the level 1 text and of the draft RTS;
- ii. Resolution authorities devoting resources to support the home-host cooperation in developing the joint decision documents (e.g. submission of contributions where needed, and discussions on the submitted contributions).

## Benefits

The following benefits are expected from:

- i. the contributions to the joint decision documents from resolution authorities of subsidiaries and from the group-level resolution authority will be more homogenous, comparable, of the same quality and will ensure compliance with the level 1 text;

- ii. the joint decision document is expected to contain these elements, which will allow its qualification as a fully reasoned joint decision, where needed;
- iii. The recipients of the joint decision documents or the decisions taken in the absence of a joint decision, Union parent undertaking or other members of the resolution college, are expected to receive documents that will allow them to understand the details of the decisions taken or the reasons leading to disagreement.

### Section III – Resolution joint decisions

#### **d. Consultation - Presumption of consent of the members and observers who did not express any material divergent views or concerns**

##### Description of the policy option

The draft RTS specify how the group-level resolution authority shall consult members and observers (on the draft assessment or decision on the need for a group resolution scheme and also on the group resolution scheme). In the consultation, upon expiry of the deadline, the group-level resolution authority shall presume consent of the members and observers who did not express divergent views or concerns.

##### Costs

The main costs expected to arise from presuming consent from members and observers in the absent of any response within the deadline are as follows:

- i. there may be costs in facilitating fast and secure means of communication to and from the group-level resolution authority to the members and observers;
- ii. there will likely be a tight time schedule on the resolution authorities to process and respond quickly to the relevant group-level resolution authority meaning requirements in establishing more efficient management of resolution cooperation and potentially higher costs in terms of the resources needed to develop a response on any divergent views or concerns on the assessment, decision or proposals being consulted on;
- iii. further resources may be required from the group-level resolution authority to review the divergent views or concerns being submitted in a short period of time.

##### Benefits

The provisions of the RTS covering the conduct in the consultations when in resolution are expected to result in the following benefits both for the members and observers of the resolution college and the supervised entities:

- i. maintenance of the fast process necessary in the situation of resolution
- ii. ensuring that the members and observers take the necessary steps internally in the context of the urgency of the matter to ensure a fast response;
- iii. improvements in cooperation ensuring that both the group-level resolution authority and the relevant members and observers to whom the decision, assessment or proposal is relevant to respond where necessary;



- iv. undue burden is not placed on the members and observers of the college not impacted by the assessment, decision or proposal;
- v. ensuring that the outcome of the process is clear, both for the group level resolution authority and the members and observers of the resolution college;
- vi. the group-level resolution authority has a definitive point in time at which point it can progress with moving to the next steps and therefore not delaying the resolution of the group or specific entities which could cause unforeseen economic costs.

**e. Proposal of the group resolution scheme**

**Description of the policy option**

The draft RTS specify that the group-level resolution authority, in communicating its final assessment or decision to the members of the resolution college and to the observers involved, where positive, may move immediately to the next step of proposing the group resolution scheme without the need to communicate separate information on the positive conclusion of the assessment or decision. The group-level resolution authority would take the final conclusion on the assessment or decision on the group level resolution scheme and would also have sufficient information to put forward the proposal on the group resolution scheme.

**Costs**

The main costs expected to arise from proposing the group resolution scheme when the result of the assessment or decision on the need for a group resolution scheme is positive are:

- i. There may be costs in facilitating fast and secure means of communication to and from the group-level resolution authority to the members and observers;
- ii. there will likely be a tight time schedule on the group-level resolution authority to process the results of the consultation and to propose a workable group resolution scheme;
- iii. further resources may be required from the group-level resolution authority to review the divergent views or concerns being submitted in a short period of time.

**Benefits**

The provisions of the RTS are expected to result in the following benefits:

- i. this will facilitate the necessary speed for providing the group resolution scheme with due urgency and within the timeframe articulated in Art 91 (4).
- ii. It will ensure that there is no undue delay and that there are no unnecessary steps the group-level resolution authority takes the necessary steps in the context of the urgency of the matter;
- iii. It will remove unnecessary costs involved in communicating with the resolution college more than once on the same topic when the necessary next step is clear.

**f. Involvement of resolution authorities of members and observers in the joint decision on the group resolution scheme**

### Description of the policy option

The draft RTS propose that the resolution authorities of members and observers receive the proposed group resolution scheme with the intention that all members are invited to provide any material diverging views or concerns. The signatories of the joint decision on the group resolution scheme are the resolution authorities of the subsidiaries covered by the scheme therefore those authorities involved in the consultation is broader than the signatories of the joint decision. Divergent views and concerns expressed by members and observers will be taken into account by the group-level resolution authority. The aim of this policy option is to ensure that the scheme allows all authorities and entities impacted by the resolution of the group or entity to express their views as the impact may not be immediately obvious to the group level resolution authority.

### Costs

The main costs expected to arise from involvement of resolution authorities of members and observers in the joint decision on the group resolution scheme are:

- i. there may be costs in implementing fast and secure means of communication to and from the group-level resolution authority to the members and observers.
- ii. there will likely be a tight time schedule on the group-level resolution authority to process the results of the consultation and to propose a workable group resolution scheme;
- iii. further resources may be required from the members and observers to be able to review the group resolution scheme and to respond in a short timeframe. There may also be resource constraints on the group-level resolution authority to review the possibly large number of divergent views or concerns being submitted.

### Benefits

The provisions of the RTS are expected to result in the following benefits:

- i. this will facilitate all resolution college members and observers to be able to comment on the proposed group resolution scheme and to therefore have the opportunity to highlight to the group-level resolution authority when there is an impact leading to diverging views or material concerns on a particular entity.
- ii. it will remove unnecessary costs involved in communicating with the resolution college more than once on the same topic when the necessary next step is clear.
- iii. it will ensure that the process is smooth and moves quickly from the assessment or decision on the group resolution scheme to the proposal.

#### 5.1.6 Overall impact assessment

The standards have benefitted both from the EU regulatory framework, including final and draft technical standards in the area of home-host and colleges, and the experience gained from the supervisory colleges, as well as from international standards and from experience gained from CMGs or CBSGs. This accumulated experience, both at EU and international level, will assist the newly established resolution authorities in setting up resolution colleges and in organising their functioning in an efficient and effective way, keeping the operational costs at a reasonable level and minimising operational malfunctions. These increased benefits compensate for the costs related to the setting up, organisation and operation of resolution colleges, where currently no

specific procedures and good practices exist. The net impact of the draft RTS is assessed as moderately beneficial from an economic perspective.

## 5.2 Overview of questions for Consultation

Q1: Do you have any suggestions regarding the process to be followed by the members of the resolution college for communicating with the Union parent undertaking and with its entities? Comments/suggestions are invited both with regards to the general communication policy under Article 10 and with regards to other aspects of interaction with the group during resolution planning and resolution management.

Q2: Do you have any suggestions regarding elements of the various joint decisions in resolution planning and in cross-border resolution?