

EBA/GL/2015/06

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Guidelines

on the minimum list of services or facilities that are necessary to enable a recipient to operate a business transferred to it under Article 65(5) of Directive 2014/59/EU

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Status of these guidelines

This document contains guidelines issued pursuant to Article 16 of 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 ('the EBA Regulation'). In accordance with Article 16(3) of the EBA Regulation, competent authorities and financial institutions must make every effort to comply with the guidelines.

Guidelines set out the EBA's view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. The EBA therefore expects all competent authorities and financial institutions to which guidelines are addressed to comply with guidelines. Competent authorities to which guidelines apply should comply by incorporating them into their supervisory practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at institutions.

Reporting requirements

Pursuant to Article 16(3) of the EBA Regulation, competent authorities must notify the EBA as to whether they comply or intend to comply with these guidelines, or otherwise provide reasons for non-compliance, by 06.10.2015. In the absence of any notification by this deadline, competent authorities will be considered by the EBA to be non-compliant. Notifications should be sent by submitting the form provided in Section 5 to compliance@eba.europa.eu with the reference 'EBA/GL/2015/06'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities.

Notifications will be published on the EBA website, in line with Article 16(3).

Title I - Subject matter, scope and definitions

1. The guidelines specify the minimum list of services that are necessary to enable a recipient to effectively operate a business transferred in resolution.
2. The guidelines apply to resolution authorities.

Title II - Minimum list of services or facilities

3. When identifying necessary services or facilities, resolution authorities should assess on a case-by-case basis whether the services or facilities are required to maintain the essential internal infrastructure for the continued operation of the transferred business, assets and liabilities, in particular of critical functions. In their assessment, resolution authorities should take into account the resolution objectives and an appropriate time frame for the provision of services and facilities.
4. When assessing whether the institution under resolution or any of its group entities should be required to provide services or facilities, resolution authorities should consider at least the following:
 - (a) Human resources support:
 - (i) staff administration, including administration of contracts and remuneration;
 - (ii) internal communication;
 - (b) Information technology:
 - (i) IT and communication hardware;
 - (ii) data storage and processing;
 - (iii) other IT infrastructure, workstations, telecommunications, servers, data centres and related services;
 - (iv) administration of software licenses and application software;
 - (v) access to external providers, in particular data and infrastructure providers;
 - (vi) application maintenance, including software application maintenance and related data flows;
 - (vii) report generation, internal information flows and data bases;
 - (viii) user support;

- (ix) emergency and disaster recovery;
 - (c) Transaction processing, including legal transactional issues, in particular anti-money laundering;
 - (d) Real estate and facility provision or management and associated facilities:
 - (i) office premises and storage;
 - (ii) internal facilities management;
 - (iii) security and access control;
 - (iv) real estate portfolio management;
 - (e) Legal services and compliance functions:
 - (i) corporate legal support;
 - (ii) business and transactional legal services;
 - (iii) compliance support;
 - (f) Treasury-related services:
 - (i) coordination, administration and management of the treasury activity;
 - (ii) coordination, administration and management of entity refinancing, including collateral management;
 - (iii) reporting function, in particular with respect to regulatory liquidity ratios;
 - (iv) coordination, administration and management of medium and long-term funding programs, and refinancing of group entities;
 - (v) coordination, administration and management of refinancing, in particular short-term issues;
 - (g) Trading/asset management:
 - (i) operations processing: trade capture, design, realisation, servicing of trading products;
 - (ii) confirmation, settlement, payment;
 - (iii) position and counterparty management, with respect to data reporting and counterparty relationships;
 - (iv) position management (risk and reconciliation);
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- (h) Risk management and valuation:
 - (i) central or business line or risk type-related risk management;
 - (ii) risk report generation;
 - (i) Accounting:
 - (i) statutory and regulatory reporting;
 - (ii) valuation, in particular of market positions;
 - (iii) management reporting;
 - (j) Cash handling.
5. The resolution authority should ensure that the provision of services, in particular the services mentioned in points (f), (g) and (h) of paragraph 4 above, does not imply the taking of financial risks which might constitute financial support, which would be in conflict with Article 65(3) of Directive 2014/59/EU.

Title III - Final provisions and implementation

These guidelines shall apply as of 1 August 2015.

These guidelines should be reviewed by 31 July 2017.