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| <b>Question ID</b>  | 2015_2070  |
| <b>Status</b>   | Final Q&A  |
| <b>Legal act</b>  | Directive 2014/59/EU (BRRD)  |
| <b>Topic</b>  | Cross-border resolution  |
| <b>Article</b>  | Recital 98   |
| <b>Paragraph</b>  | -  |
| <b>Subparagraph</b>   | -  |
| <b>COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations</b> | Not applicable   |
| <b>Article/Paragraph</b>  | n.a.   |
| <b>Date of submission</b>   | 29/06/2015   |
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| <b>Disclose name of institution / entity</b>                          | No   |
| <b>Type of submitter</b>  | Competent authority  |
| <b>Subject matter</b>   | Clarification to the wording “joint decisions should be taken by national authorities concerned” in Recital 98   |
| <b>Question</b>   | Could you clarify what is meant by the wording “joint decisions should be taken by national authorities concerned” in Recital 98, and in particular what is meant by the provision “joint decision shall be recognised as conclusive and applied by the other resolution authorities concerned”?   |
| <b>Background on the question</b>                                     | Could you clarify what is meant by the wording “joint decisions should be taken by national authorities concerned”, in particular what is meant by the provision “joint decision shall be recognized as conclusive and applied by the other resolution authorities concerned”? (etc. Articles 8 (6), 13 (8), 91(10), 92 (6) of Directive 2014/59/EU (BRRD)) Does it mean the joint decision is required to be implemented through the national administrative act? Does it mean that the appeal against the joint decision is not possible? What happens in the situation when the authority agrees to a joint decision which is subsequently successfully challenged in the court? For example Authorities in States A and B agree on joint decision regarding etc. removal of impediments to resolvability. Should such a decision be considered both as a national act of authority A in respect of its jurisdiction and a national act of B in respect of its jurisdiction? Could such a joint decision be |

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|                     | appealed/challenged in the court in both states A and B?  |
| <b>Final answer</b> | <p>The joint decision adopted by the resolution authorities of different Member States must be effective and enforceable at national level. How to achieve this objective is a matter of national administrative law. Accordingly, the entitlement to challenge an administrative decision taken in one Member State before courts in another Member State depends on national or (where relevant) international laws applicable to that act. In any event, neither the recital nor other provisions in BRRD provide any specific rule in this respect.</p> <p><b>Disclaimer:</b></p> <p>The answers clarify provisions already contained in the applicable legislation. They do not extend in any way the rights and obligations deriving from such legislation nor do they introduce any additional requirements for the concerned operators and competent authorities. The answers are merely intended to assist natural or legal persons, including competent authorities and Union institutions and bodies in clarifying the application or implementation of the relevant legal provisions. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law. The views expressed in the internal Commission Decision cannot prejudge the position that the European Commission might take before the Union and national courts.</p> |
| <b>Link</b>         | <a href="https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2015_2070">https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2015_2070</a>   |

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