

Question ID	2015_2177
Status	Final Q&A
Legal act	Directive 2014/59/EU (BRRD)
Topic	Resolution objectives and triggers
Article	32 / 81 / 82
Paragraph	(1) / (3) / (2)
Subparagraph	-
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Not applicable
Article/Paragraph	n.a.
Date of submission	28/07/2015
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Disclose name of institution / entity	No
Type of submitter	Competent authority
Subject matter	Determination made by competent authority
Question	Must the “determination made by competent authority”, mentioned in Article 32(1)(a) of the Directive 2014/59/EU (BRRD), be enshrined in a formal decision of the competent authority?
Background on the question	It is not clear if the format of these determinations is prescribed and what format should they should take.
Final answer	<p>According to Article 81(3) BRRD, the competent authority or the resolution authority, upon determining that the conditions referred to in Article 32(1)(a) and (b) BRRD are met, must communicate such determination without delay to a number of authorities, listed thereunder. Both Articles 81 and 32 BRRD are silent as to which form such determination should take. The same holds true for Articles 45 and 48 of Commission Delegated Regulation (EU) 2016/1075, which, however, set a number of rules in relation to the notification of such determination.</p> <p>In light of the above, any aspect that is not governed by the BRRD or supplementing Regulations is to be determined in accordance with the</p>

	<p>applicable national law.</p> <p>Disclaimer:</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>
Link	<p>https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2015_2177</p>

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