

Single Rulebook Q&A

Question ID	2016_2578
Status	Final Q&A
Legal act	Directive 2014/59/EU (BRRD)
Topic	Other topics
Article	1
Paragraph	1
Subparagraph	e
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Not applicable
Article/Paragraph	n.a.
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Disclose name of institution / entity	No
Type of submitter	Competent authority
Subject matter	Branches of institutions that are established outside the Union
Question	Does the notion of “branches of institutions that are established outside the Union” according to Article 1(1)(e) of Directive 2014/59/EU (BRRD) refer to Union branches of third-country institutions?
Background on the question	<p>According to Article 1(1)(e), the provisions of Directive 2014/59/EU (BRRD) apply to “branches of institutions that are established outside the Union in accordance with the specific conditions laid down in this directive”. This redaction does not allow to determinate whether it is “institutions” that are established outside the Union” or it is “branches” that are established outside the Union. One interpretation of this could be: “Institutions are in the Union, branches are outside the Union”.We would like to raise our concerns on this issue, for the following reasons: the initial proposition of the directive mentioned “branches of institutions having their head office outside the Union in accordance with the specific conditions laid down in this directive”. This previous redaction clearly provided for Union branches within the scope of the directive; Union branches would not be subject to contributions to the national resolution fund, except if they are considered as “institutions that are established in the union”.How could we transpose Article 96 if Union branches do not fall within the scope of BRRD? We think:</p>

	<p>Branches outside the Union are included in Article 1(1)(a). Branches inside the Union) are included in Article 1(1)(e). More precisely, Article 1(1)(e) deals with Union branches defined in Article 2(1)(89). Can you confirm Article 1(1)(e) deals with branches in the Union of institutions outside the Union?</p>
Final answer	<p>Article 1(1)(e) BRRD refers to branches located in a Member State of institutions whose head office is established in a third country. For the avoidance of doubt, branches located in third countries of Union established-institutions are included in Article 1(1)(a) BRRD.</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 prejudice 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/2016_2578</p>

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