

<b>Question ID</b>	2016_2621
<b>Status</b>	Final Q&A
<b>Legal act</b>	Directive 2014/59/EU (BRRD)
<b>Topic</b>	Resolution objectives and triggers
<b>Article</b>	32, 82
<b>Paragraph</b>	1
<b>Subparagraph</b>	-
<b>COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations</b>	Not applicable
<b>Article/Paragraph</b>	n.a.
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<b>Disclose name of institution / entity</b>	No
<b>Type of submitter</b>	Competent authority
<b>Subject matter</b>	Use of resolution tools without issuing a formal decision
<b>Question</b>	In light of Article 32(1) and Article 82 of Directive 2014/59/EU (BRRD), should the decision initiating resolution spell out which resolution tool/s, among those listed in Article 37(3) BRRD, will be applied, or is it possible to apply resolution tools without issuing a formal decision?
<b>Background on the question</b>	Article 32(1) of BRRD specifies the conditions that should be met to trigger resolution while Article 37(3) of BRRD spells out the resolution tools that may be used by resolution authorities. Article 82 of BRRD specifies the conditions to be fulfilled by the decision of a resolution authority to take resolution action in relation to an institution under BRRD.
<b>Final answer</b>	<p>Article 82(2) BRRD requires that the resolution authority's decision must contain both (a) the determination on whether the conditions for resolution are met and the decision to take resolution actions; and (b) the action that the resolution authority intends to take. In light of such provision, the decision under Article 82 BRRD should spell out any of the resolution tools that, at that moment, the authority envisages to take.</p> <p>Should the necessity of applying further resolution tools or powers arise</p>

following the adoption of the initial decision under Article 82 BRRD, a new formal decision should be adopted.

**Disclaimer:**

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.

**Link**

[https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2016\\_2621](https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2016_2621)

European Banking Authority, 22/05/2022  
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