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**ANNEX II**

**INSTRUCTIONS FOR FILLING IN THE NOTIFICATION ON IMPRACTICABILITY OF  
CONTRACTUAL RECOGNITION OF WRITE-DOWN AND CONVERSION POWERS**

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## **PART I: GENERAL INSTRUCTIONS**

1. This annex covers instructions for the notification on impracticability of contractual recognition of write-down and conversion powers (bail-in), which contains information required as per Directive 2014/59/EU and the relevant RTS on impracticability.
2. Each notification can contain reference to several contracts/instruments and/or several categories (if applicable), which meet the conditions of impracticability.
3. Additional supporting documentation, including legal opinion, can be provided by the institution, as it considers appropriate to support its notification. The way to provide such additional documentation will be decided by the relevant resolution authority.

### **1. Structure of the notification**

4. This notification consists of 4 templates:
  - (1) ‘Nature of Notification’, which provides information to identify the notification itself and the institution that is notifying the Resolution Authority.
  - (2) ‘Impracticability of contractual recognition of bail-in by contract/instrument’, which provides the information on liabilities which meet the condition of impracticability of contractual recognition of bail-in, in accordance with art. 55(2), subparagraph 1 of Directive 2014/59/EU (‘BRRD’).
  - (3) ‘Impracticability of contractual recognition of bail-in by category’, which provides the information on categories of liabilities which meet the condition of impracticability of contractual recognition of bail-in, in accordance with art. 55(7) of Directive 2014/59/EU (‘BRRD’) if the relevant resolution authority deems necessary to use this provision.
  - (4) ‘Liability Insolvency Classes’, which provides information on liabilities, for the purposes of art. 55(2), subparagraph 5 of BRRD.

Article 55(7) of the BRRD provides the possibility that resolution authorities specify categories of liabilities for which an institution or entity referred to in point (b), (c) or (d) of Article 1(1) BRRD may reach the determination that it is legally or otherwise impracticable to include the contractual term referred to in paragraph 1 of Article 55 BRRD, based on the conditions further specified as a result of the application of paragraph 6 of Article 55 BRRD. The draft ITS proposes the option to use template N01.02 in case the relevant resolution authority decides to make use of the provisions in article 55(7). In any case, the draft ITS allows notification per contract/instrument in template N01.01 and per category, if applicable, through template N01.02.

### **2. Scope of the notification**

5. The scope of notifications through this ITS are institutions and entities referred to in point (b), (c) or (d) of Article 1(1) BRRD, taking into account the national transposition of art. 55 of BRRD.

### **3. Scope of consolidation**

6. This notification shall be sent by institutions and entities referred to in point (b), (c) or (d) of Article 1(1) BRRD on an individual basis.

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## PART II: TEMPLATE RELATED INSTRUCTIONS

### 4. N 01.00 – Notification identification

#### 4.1 Instructions concerning specific rows

Rows	Legal references and instructions
0010	<p><b><u>Notification ID</u></b></p> <p>Each notification shall have a unique ID provided by the institution or entity notifying. The notification ID is per notification submission, not per liability or category; a notification can include any number of liabilities or categories, if applicable. The institution shall provide the notification ID which shall be unique for each notification.</p>
0020	<p><b><u>Notification date</u></b></p> <p>Institutions shall indicate the date when the notification was sent to the Resolution Authority.</p>
0030	<p><b><u>Notification type</u></b></p> <p>Institutions shall indicate the type of items being notified as follows:</p> <ul style="list-style-type: none"><li>- Only contracts/instruments (template N01.01);</li><li>- Only categories (template N01.02);</li><li>- Both contracts/instruments and categories.</li></ul>
0040	<p><b><u>Reference date for N01.01 and N01.02</u></b></p> <p>Institutions and entities shall indicate the reference date for the information in the N01.01 and N01.02 notifications.</p>
0050	<p><b><u>Reference date for N02.00</u></b></p> <p>Institutions and entities shall indicate the reference date for the information in the N02.00 table.</p>
0060	<p><b><u>Applicable currency</u></b></p> <p>Institutions and entities shall indicate the reference currency for the amounts in N01.01 column 0100, N01.02 column 0200 and in N02.00 (all monetary fields).</p> <p>This has to be the applicable currency in the Member State. The value will be the alphabetic ISO 4217 code.</p>
0070	<p><b><u>Institution name</u></b></p> <p>Name of the institution or entity sending the notification.</p>
0080	<p><b><u>Code</u></b></p>

	<p>Code of the entity. For institutions the code shall be the 20-digit, alphanumeric LEI code. For other entities the code shall be the 20-digit, alphanumeric LEI code, or if not available a code under a uniform codification applicable in the Union, or if not available a national code.</p> <p>The code shall be consistent with the code reported for the same institution under the Resolution Reporting (ITS 2018/1624). The code shall always have a value.</p>
0090	<p><b><u>Contact person</u></b></p> <p>Institutions and entities shall indicate the name of a person to be contacted in case the Resolution Authority needs clarifications regarding the notification.</p>
0100	<p><b><u>Email</u></b></p> <p>Institutions and entities shall indicate the email of the person to be contacted in case the Resolution Authority need clarifications regarding the notification.</p>
0110	<p><b><u>Telephone</u></b></p> <p>Institutions shall indicate the telephone of the person to be contacted in case the Resolution Authority needs clarifications regarding the notification.</p>

## 5. N 01.01 - Impracticability of contractual recognition of bail-in by contract/instrument

### 5.1 General remarks

7. Template N 01.01 shall be notified separately for the following types of contracts:

- a. Contracts/instruments creating new liabilities: Contracts/instruments which were not notified previously to the RA
- b. Contracts/instruments amending existing liabilities: Contracts/instruments which amend existing liabilities. In case the contract or instrument for the existing liability has been previously notified to the Resolution Authority as meeting conditions of impracticability, the amending contracts or instruments shall have the same Liability ID (column 0010) notified before and the remaining columns shall only be filled-in if subject to changes. In particular, column Material Amendment? (0020) has to be used, if relevant, only for contracts amending existing liabilities.

### 5.2 Instructions concerning specific columns

Column	Legal references and instructions
0010	<p><b><u>LIABILITY ID</u></b></p> <p>The liability ID is a liability identifier generated by the notifying institution or entity that shall be used throughout all notifications to identify the same liability. It shall be unique for each liability. The institution or entity might use the internal code for the liability.</p>
0020	<p><b><u>MATERIAL AMENDMENT?</u></b></p> <p>This field is to be filled-in only in case of contracts/instruments amending existing liabilities. The institution or entity making the notification will indicate if the amendments</p>

	<p>to the existing liability are considered material.</p> <p>Institutions and entities shall use one of the following values:</p> <ul style="list-style-type: none"> <li>- Yes;</li> <li>- No.</li> </ul>
0030	<p><b><u>FINAL MATURITY DATE</u></b></p> <p>The date upon which all principal and interest of the liability must be legally repaid (based on the transaction documentation).</p> <p>The day, month and year of the legal final maturity date shall be provided. The exact day shall be provided where that information is available, otherwise the first day of the month shall be used.</p>
0040	<p><b><u>RENEWABLE?</u></b></p> <p>Institutions and entities shall use one of the following values:</p> <ul style="list-style-type: none"> <li>- Yes;</li> <li>- No.</li> </ul> <p>This column shall be filled-in as 'Yes' when the maturity of the liability is renewable.</p>
0050	<p><b><u>RENEW FREQUENCY</u></b></p> <p>If column 0040 is filled-in as 'Yes', institutions shall specify the frequency of the maturity renew in months.</p>
0060-0120	<p><b><u>CONTRACT / INSTRUMENT</u></b></p>
0060	<p><b><u>DESCRIPTION</u></b></p> <p>Institutions shall provide a contract/instrument description, with no more than 300 characters. This field shall contain the main characteristics of the contract/instrument not captured in the other fields of this notification.</p>
0070	<p><b><u>LIABILITY TYPE</u></b></p> <p>Institutions shall identify if the contract/instruments is related to one of the following:</p> <ul style="list-style-type: none"> <li>- Hedging</li> <li>- Interbank Deposit</li> <li>- Deposit with non-banking clients</li> <li>- Derivative</li> <li>- Derivatives - Hedging</li> <li>- Borrowing/Funding</li> <li>- Trade finance</li> <li>- Operational services which are not critical to the functioning of the entity</li> <li>- Others</li> </ul> <p>If more than one type is applicable, the one that describes most the purpose of the liability shall be selected.</p>

0080	<p><b><u>INSOLVENCY RANKING</u></b></p> <p>The institution shall fill in the value corresponding to the liability ranking in a climax from 1 to x, with 1 the most senior and x the most junior class, as defined by the relevant national law applicable.</p>
0090	<p><b><u>NOMINAL AMOUNT IN ORIGINAL CURRENCY</u></b></p> <p>Institutions and entities shall provide the nominal amount of the liability <b>foreseen</b> under the contractual terms. The values in this field should reflect the foreseen (nominal) amount under the contract/instruments or agreement. In case of framework agreements, the institution should indicate the maximum amount it considers to be reached under that framework agreement.</p>
0100	<p><b><u>ORIGINAL CURRENCY</u></b></p> <p>Institutions and entities shall assign a currency ISO code corresponding to the denomination of the liability. The three-letter currency unit code according to ISO 4217 shall be used.</p>
0110	<p><b><u>NOMINAL AMOUNT IN LOCAL CURRENCY</u></b></p> <p>Institutions and entities shall fill-in this column in case column 0090 is not the local currency. Institutions shall use the FX rate applicable at the date of notification.</p>
0120	<p><b><u>GOVERNING LAW</u></b></p> <p>Institutions and entities shall provide the ISO 3166-1 three-letter alpha code of the country code the law of which governs the contract/instrument.</p>
0130-0180	<p><b><u>IMPRACTICABILITY</u></b></p>
0130	<p><b><u>TYPE</u></b></p> <p>Institutions and entities shall identify the condition(s) for which they consider it is legally or otherwise impracticable to include the contractual term defined in RTS [XXX]</p> <p>Institutions shall provide the combination of applicable conditions (can use only one up to all 5 if the case):</p> <ul style="list-style-type: none"> <li>- Condition a)</li> <li>- Condition b)</li> <li>- Condition c)</li> <li>- Condition d)</li> <li>- Condition e)</li> </ul> <p><u>All conditions that are applicable shall be notified.</u></p>
0140	<p><b><u>CATEGORY</u></b></p> <p>Institutions and entities shall include the category set under Article 55(7) by the relevant</p>

	resolution authority, if applicable.
0150	<p><b><u>LIKELY IMPACT</u></b></p> <p>Institutions and entities shall describe what is the most likely impact if they would be required to perform the inclusion of the contractual term.</p>
0160	<p><b><u>LEGAL OPINION?</u></b></p> <p>Institutions and entities shall inform the Resolution Authority if there is a legal opinion concerning the notified impracticability of this liability.</p> <p>Institutions and entities shall indicate one of the following:</p> <ul style="list-style-type: none"> <li>- Yes;</li> <li>- No.</li> </ul> <p>In case institutions or entities indicate 'Yes', they shall transmit the legal opinion to the Resolution Authority by means designated by the Resolution Authority.</p>
0170-0200	<p><b><u>COUNTERPARTY</u></b></p> <p>Institutions and entities shall indicate the identification of the counterparty of this liability.</p>
0170	<p><b><u>NAME</u></b></p> <p>The name shall correspond to the individual counterparty.</p>
0180	<p><b><u>CODE</u></b></p> <p>The code as part of a row identifier must be unique for each notified entity. For institutions, the code shall be the LEI code. For other entities the code shall be the LEI code, or if not available, a national code. The code shall be unique and used consistently across the templates and across time. The code shall always have a value.</p>
0190	<p><b><u>TYPE OF CODE</u></b></p> <p>The institutions or entities shall identify the type of code filled-in in column 0180 as a 'LEI code' or 'National code'.</p>
0200	<p><b><u>NATIONAL CODE</u></b></p> <p>Institutions or entities may additionally provide the national code when they use the LEI code as identifier as in the 'Code' column.</p>

## 6. N 01.02 - Impracticability of contractual recognition of bail-in by category

### 6.1 General remarks

- c. If the relevant Resolution Authority decides to make use of the provisions set out in Article 55(7) BRRD, it shall specify the categories of liabilities for which a determination of impracticability of including the contractual term can be reached. This template (N01.02) allows notifications pursuant to such a case.

### 6.2 Instructions concerning specific columns

Column	Legal references and instructions
0010	<p><b><u>CATEGORY</u></b></p> <p>Institutions and entities shall include the relevant category specified under Article 55(7) by the relevant Resolution Authority.</p>
0020	<p><b><u>TOTAL LIABILITIES IN LOCAL CURRENCY</u></b></p> <p>Total liabilities for the Category indicated in column 0010 as an estimated maximum amount to be reached under the specified category.</p>
0030	<p><b><u>LIKELY IMPACT</u></b></p> <p>Institutions and entities shall describe what is the most likely impact if it was required to perform the inclusion of the contractual term.</p>
0040	<p><b><u>NUMBER OF UNDERLYING LIABILITIES</u></b></p> <p>Estimated maximum number of contracts/instruments existent under the notified category.</p>

## 7. N 02.00 – Liability Insolvency Classes

### 7.1 General remarks

8. The institution shall provide N02.00 with reference to the last quarter available<sup>1</sup>, except for the values in column 0070.
9. By default, amounts notified in this template shall be outstanding values, except for column 0070. The outstanding amount of a claim or instrument is the sum of the principal amount of, and accrued interest on the claim or instrument. The outstanding amount due is equal to the value of the claim which the creditor could file under insolvency proceedings. Values in column 0070 should reflect the total amount notified in templates N01.01 and N01.02 and therefore should be the maximum expected value to be reached under the currently notified contracts/instruments and/or categories.
10. The values in this template shall be provided in the local currency.

### 7.2 Instructions concerning specific columns

Columns	Legal references and instructions
0010	<p><b><u>INSOLVENCY RANKING</u></b></p> <p>The institution shall fill in the value corresponding to the liability ranking in a climax from 1 to x, with 1 the most senior and x the most junior class, as defined by the relevant national law applicable.</p>
0020	<p><b><u>OUTSTANDING TOTAL LIABILITIES IN RANKING</u></b></p> <p>Total outstanding amount of liabilities for the Insolvency Ranking provided in column 0010.</p>

<sup>1</sup> The last quarter available shall be in line with the reporting remittance dates for quarterly reporting: 12 May (for reference date 31 March), 11 August (for reference date 30 June), 11 November (for reference date 30 September) and 11 February (for reference date 31 December).



0030	<p><b><u>OF WHICH: LIABILITIES GOVERNED BY THE LAW OF A THIRD COUNTRY</u></b></p> <p>These shall include the outstanding amounts of liabilities governed by the law of a third-country. Where the resolution authority has confirmed that it is satisfied, pursuant to Article 45 (5) of Directive 2014/59/EU of the European Parliament and of the Council<sup>2</sup>, that any decision of a resolution authority to write down or convert a liability would be effective under the law of that third country, that liability shall not be provided under this heading.</p>
0040	<p><b><u>OF WHICH: PREVIOUSLY NOTIFIED TO THE RESOLUTION AUTHORITY</u></b></p> <p>These shall include all liabilities and/or categories previously notified to the resolution authority under article 55 BRRD. The value will be the outstanding amount.</p> <p>These liabilities shall fulfil the following conditions:</p> <ul style="list-style-type: none"> <li>- They still exist;</li> <li>- They have been accepted as impracticable by the Resolution Authority or they are still under the deadline to receive an answer from the Resolution Authority.</li> </ul>
0050	<p><b><u>OF WHICH: CURRENTLY NOTIFIED TO THE RESOLUTION AUTHORITY</u></b></p> <p>These shall include the outstanding amounts of the liabilities and/or categories notified in templates N 01.01 and N01.02 of this notification.</p>
0060	<p><b><u>OF WHICH: EXCLUDED FROM BAIL-IN</u></b></p> <p>These shall include liabilities which are excluded from the application of the bail-in tool in accordance with Article 44(2) or which are likely to be excluded in accordance with Article 44(3) BRRD.</p>
0070	<p><b><u>NOMINAL AMOUNT OF TOTAL LIABILITIES CURRENTLY NOTIFIED TO THE RESOLUTION AUTHORITY</u></b></p> <p>This field shall reflect the total (sum) of the nominal and/or maximum expected amounts of the liabilities and/or categories notified in templates N 01.01 and N01.02 of this notification.</p>

<sup>2</sup> Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190)