



EBA/ITS/2020/08

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Final Report

Draft implementing technical standards to specify uniform reporting templates, instructions and methodology for reporting on minimum requirements for own funds and eligible liabilities

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1. Executive summary

Directive 2014/59/EU (the BRRD) establishes a framework for the recovery and resolution of credit institutions, investment firms and related entities. The BRRD provides that resolution authorities, in cooperation with the relevant competent authorities, must ensure that institutions meet at all times a minimum requirement for own funds and liabilities eligible for bail-in (MREL).

The BRRD has been amended by Directive (EU) 2019/879 (BRRD2)¹ to include provisions detailing new requirements on MREL subordination levels and the MREL applicable to resolution entities and entities that are not themselves resolution entities.

MREL must be set for each and every institution based on criteria laid down in the BRRD as amended. To enable the EBA to monitor the consistency of implementation across the Union, resolution authorities are required to inform the EBA of the minimum requirement that has been set for each institution in their jurisdiction. This should be done in coordination with the relevant competent authorities.

The draft implementing technical standards (ITS) set out in this consultation paper replace the previous ITS on MREL reporting² in order to properly reflect the changes introduced to the BRRD. These draft ITS specify uniform formats, templates and definitions that must be used by resolution authorities when transmitting information regarding the MREL requirements to the EBA.

The templates laid down in the annexes to the ITS are to be used for reporting on each component of the decision in compliance with the methodology laid down in the BRRD. This information will help the EBA in monitoring and promoting the consistent application of the legal framework on MREL. In line with the principle of proportionality, where a recapitalisation amount is set to zero, and no adjustments are made to loss-absorbing capacity, Annex II allows simplified reporting.

It should be noted that these draft ITS concern only reporting on MREL by resolution authorities to the EBA. Reporting by institutions to resolution or competent authorities is outside the scope of this reporting framework.

¹ Directive (EU) 2019/879 of the European Parliament and of the Council of 20 May 2019 amending Directive 2014/59/EU as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms and Directive 98/26/EC.

² Commission Implementing Regulation (EU) 2018/308 of 1 March 2018 laying down implementing technical standards for Directive 2014/59/EU of the European Parliament and of the Council with regard to formats, templates and definitions for the identification and transmission of information by resolution authorities for the purposes of informing the European Banking Authority of the minimum requirement for own funds and eligible liabilities.

2. Background and rationale

The BRRD establishes a framework for the recovery and resolution of credit institutions, investment firms and related entities. Under this framework, resolution authorities, in cooperation with the relevant competent authorities, must ensure that institutions meet at all times an MREL.

Through Directive (EU) 2019/879, the BRRD has been amended to include new provisions regarding in particular MREL subordination levels and the MREL applicable to resolution entities and entities that are not themselves resolution entities.

MREL is set on a firm-by-firm basis, based on criteria laid down in Articles 45d, 45e and 45f of the BRRD. Article 45j of the BRRD requires that resolution authorities, in coordination with competent authorities, shall inform the EBA of the MREL set for each institution under their jurisdiction. This information enables the EBA to monitor the consistent application of the MREL framework across the Union.

In order for this monitoring to be meaningful, the information reported to the EBA should be sufficiently consistent in terms of granularity and layout. In this regard, Article 45j(2) of the BRRD empowers the EBA to develop procedures and templates for the identification and transmission of information.

Acting upon this mandate, these draft ITS set out minimum procedural obligations covering reporting periods and submission dates, as well as templates to be used by resolution authorities when informing the EBA of the MREL requirements they have set. Reporting on MREL decisions to the EBA and reporting on MREL by institutions to their resolution authorities in line with the EBA's regulatory technical standards (RTS) on MREL reporting and disclosure differ in their objectives. These ITS aim to ensure that information is received on how the decision was made and on what basis, while the RTS aim simply to monitor the level of resources against the requirements.

The previous ITS on MREL reporting by resolution authorities to the EBA will be replaced by these new draft ITS in order to account for the changes introduced by Directive (EU) 2019/879.

Reporting templates

These ITS include the reporting template found in Annex I and the instructions in Annex II.

- Annex II covers the essential components of MREL decisions, in compliance with the methodology laid down in Articles 45c and 45d of the BRRD, in particular the structuring of the decision around a loss absorption amount and a recapitalisation amount, and the corresponding adjustments.

Annex I contains, first, the minimum basic information to be filled in for all institutions, including the legal entity to which the decision is addressed, the consolidated or individual basis

of the decision and its date. Where the MREL requirement has been waived in line with the BRRD, no additional information is necessary.

If, on the other hand, the MREL has not been waived but the recapitalisation amount has been set to zero in line with Article 45c(2), second subparagraph, of the BRRD, simplified reporting is allowed. Resolution authorities will set a recapitalisation amount equal to zero where the resolvability assessment concludes that liquidation under normal insolvency proceedings is feasible and credible. A zero recapitalisation amount is likely to be the case for a significant number of smaller institutions. In that case, the full set of information is not needed.

Finally, where the MREL has not been waived, because the recapitalisation amount has been set to zero but the loss-absorbing amount has been adjusted, the draft ITS require full reporting.

Resolution authorities are required, on a best-effort basis, to provide a condensed explanation of the adjustments made to the default MREL amount. These notes fields in the template will be useful in assessing any divergences in the levels set for comparable institutions across Member States. The ITS remain flexible about the exact form of the explanation, and allow cross-references to resolution plans, public decisions, policy statements of the resolution authority and other supporting documents.

Procedure

In line with Article 45j of the BRRD, each resolution authority, in coordination with competent authorities, must inform the EBA of the MREL that has been set for each institution under its jurisdiction.

With regard to groups, this implies that the group-level resolution authority is to transmit the relevant information for the parent entity on a consolidated basis and, where applicable, on an individual basis. Each authority having jurisdiction over subsidiaries is to transmit the information regarding the MREL that has been set in relation to those subsidiaries.

For groups established or having subsidiaries within the banking union, the Single Resolution Board will report on decisions taken in relation to all entities falling under its jurisdiction, as defined in Article 7(2) of the Single Resolution Mechanism Regulation³.

In all cases, resolution authorities will be required to specify whether the MREL was adopted by joint decision or not. It is worth noting that, under Article 45h of the BRRD, the resolution authority of the resolution entity, or the group-level resolution authority, where different from the former, and the resolution authorities responsible for the subsidiaries of a resolution group that are subject to MREL on an individual basis 'shall do everything within their power to reach a joint decision on: (a) the amount of the requirement applied at the consolidated resolution group level for each resolution entity; and (b) the amount of the requirement applied on an individual basis to each entity of a resolution group which is not a resolution entity'.

³ REGULATION (EU) No 806/2014

Resolution authorities are required to submit information on all MREL decisions by 31 May for all MREL applicable on 1 May of the same year.

3. Draft implementing technical standards to specify uniform reporting templates, instructions and methodology for reporting on minimum requirements for own funds and eligible liabilities

COMMISSION IMPLEMENTING REGULATION (EU) XX/XX laying down implementing technical standards with regard to uniform reporting templates, instructions and methodology for reporting on the minimum requirement for own funds and eligible liabilities

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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,¹ and in particular Article 45j(2) thereof,

Whereas:

- (1) Resolution authorities have been given the task of setting minimum requirements for own funds and eligible liabilities (MREL) in accordance with the requirements and procedures laid down in Articles 45 to 45i of Directive 2014/59/EU, as amended by Directive (EU) 2019/879 (BRRD2). To assist the European Banking Authority (EBA) in promoting convergence of approach across the Union, resolution

¹ OJ L 173, 12.6.2014, p. 190.



authorities are required under Article 45j of Directive 2014/59/EU to inform the EBA, in coordination with competent authorities, of the requirements they have set.

- (2) Commission Implementing Regulation (EU) 2018/308, enacted under the mandate in the former Article 45(17) of Directive 2014/59/EU (deleted by BRRD2), specified formats, templates and definitions for the transmission by resolution authorities of the information regarding the MREL requirements to the EBA. Since the adoption of Commission Implementing Regulation (EU) 2018/308, the requirements related to the loss-absorbing and recapitalisation capacity and, in particular, the features of and methodologies for setting the MREL of credit institutions and investment firms laid down in Directive 2014/59/EU have been amended and further specified by BRRD2. Before this amendment, they were specified by Commission Delegated Regulation (EU) 2016/1450.
- (3) In order to facilitate the EBA's monitoring of MREL decisions and ensure a meaningful assessment of convergence in approach across the Union, the uniform templates and definitions specified for the identification and transmission of information on MREL by resolution authorities to the EBA should be further specified to take into account the amendments to Directive 2014/59/EU relating in particular to MREL subordination levels and the MREL applied to entities that are not themselves resolution entities.
- (4) With respect to groups that are subject to consolidated MREL, it is necessary to clarify which resolution authority should transmit the information on MREL to the EBA. Therefore, resolution authorities responsible for groups' subsidiaries, in coordination with competent authorities, should inform the EBA of the MREL that has been set for each institution under their jurisdiction on the basis of a joint decision reached between the resolution authority of the resolution entity, or the group-level resolution authority, where different from the former, and the resolution authority responsible for the subsidiary on an individual basis, or of a decision taken by the resolution authority of the subsidiary in the absence of a joint decision, in accordance, where applicable, with the decision that may be taken by the EBA in accordance with Article 19 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council.² In order to promote convergence of practices regarding MREL decisions and strengthen the monitoring role of the EBA, uniform reporting periods and submission dates for the transmission of information by the resolution authorities to the EBA have been reassessed to align full and simplified reporting.
- (5) To enhance data quality and ensure comparability, the data items set out in the reporting templates introduced by this Implementing Regulation should comply with the single data point model, as is the practice in supervisory reporting. The single data point model should consist of a structural representation of the data items, identify all relevant business concepts for the purpose of uniform reporting on MREL

² Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJL 331, 15.12.2010, p. 12).

decisions and contain all of the relevant specifications necessary for further development of uniform IT reporting solutions. The data exchange format should be set out in the EBA's reporting system (EUCLID).

- (6) To ensure the quality, consistency and accuracy of data items reported, the data items should be subject to common validation rules.
- (7) Given the extent of the necessary amendments to Implementing Regulation (EU) 2018/308, it is preferable, for reasons of legal certainty and clarity, to adopt a new Implementing Regulation and, therefore, to repeal Implementing Regulation (EU) 2018/308.
- (8) This Regulation is based on the draft implementing technical standards submitted by the EBA to the Commission.
- (9) The EBA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits, and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010,

HAS ADOPTED THIS REGULATION:

Article 1

Information included in the templates

1. In order to inform the EBA of the MREL that has been set for each institution under their jurisdiction in accordance with Article 45c, and 45e or 45f, of Directive 2014/59/EU on an individual and consolidated basis, resolution authorities, in coordination with competent authorities, shall transmit to the EBA the information specified in the templates set out in Annexes I and II to this Regulation.
2. The terms used in Annexes I and II shall have the same meaning attributed to them in the relevant provisions of Directive 2014/59/EU as amended by Directive (EU) 2019/879.

Article 2

Simplified reporting requirement for institutions subject to waivers and institutions for which the recapitalisation amount is zero

1. By way of derogation from Article 1 of this Regulation, in relation to those institutions for which the application of the MREL has been waived under Article 45f(3), 45f(4) or 45g of Directive 2014/59/EU, resolution authorities shall transmit to the EBA the information specified in columns 0010 to 0080 of Annex I.
2. By way of derogation from Article 1 of this Regulation, in respect of those institutions for which the recapitalisation amount is zero in accordance with Article 45c(2) of Directive 2014/59/EU, and where no adjustments to the loss absorption amount are made as per Article 45c(2) of Directive 2014/59/EU, resolution authorities shall transmit to the EBA the information specified in columns 0010 to 0060 of Annex I.

Article 3

Reporting authority in respect of groups

1. In respect of groups that are subject to a consolidated MREL, the information referred to in Articles 1 and 2 shall be submitted in the following manner:
 - a) the relevant group-level resolution authority, in coordination with the consolidating supervisor, shall inform the EBA of both the MREL determined on a consolidated basis and, where applicable, the MREL determined on an individual basis, for the Union parent undertaking or the parent undertaking referred to in Article 2 of Regulation (EU) No 806/2014 of the European Parliament and of the Council,³ as applicable;
 - b) the relevant resolution authorities, in coordination with the competent authority, shall inform the EBA of the MREL to be applied to the group subsidiaries under their jurisdiction at the resolution group consolidated level and on an individual basis as applicable.

Article 4

Reporting periods and submission dates

Resolution authorities shall transmit the information referred to in Articles 1 and 2 for the MREL applicable as of 1 May of each year by 31 May.

Article 5

Data exchange formats and information accompanying submissions

1. Resolution authorities shall submit the information referred to in this Regulation in the data exchange format and according to the technical specifications and representations of the EBA's reporting system (EUCLID).
2. Where submitting information referred to in this Regulation, resolution authorities shall respect the data point definitions of the data point model and the validation formulae referred to in Annex III as well as the following specifications:
 - (a) information that is not required or not applicable shall not be included in a data submission;
 - (b) numerical values shall be submitted as follows:
 - (i) data points of the data type 'Monetary' shall be reported using a minimum precision equivalent to thousands of units;
 - (ii) data points of the data type 'Percentage' shall be expressed as per unit with a minimum precision equivalent to four decimal places;
 - (iii) data points of the data type 'Integer' shall be reported using no decimal places and a precision equivalent to units;
 - (c) institutions, insurance undertakings and legal entities shall be identified by their Legal Entity Identifier where available;

Article 6

Repeal

Commission Implementing Regulation (EU) 2018/308 is hereby repealed with effect from [xx xxxx 20xx].

Article 7

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.



Done at Brussels,

For the Commission

The President

On behalf of the President

[Position]

ANNEX I – Template

[see separate document]

ANNEX II – Instructions

[see separate document]

ANNEX III

Single data point model and validation rules

Part One

Single data point model

All data items set out in the annexes to this Regulation shall be transformed into a single data point model, which is the basis for uniform IT systems of resolution authorities.

The single data point model shall meet the following criteria:

- (a) provide a structured representation of all data items set out in the annexes to this Regulation;
- (b) identify all the business concepts set out in the annexes to this Regulation;
- (c) provide a data dictionary identifying table labels, ordinate labels, axis labels, domain labels, dimension labels and member labels;
- (d) provide metrics that define the property or number of data points;
- (e) provide data point definitions that are expressed as a composition of characteristics that univocally identify the financial concept;
- (f) contain all the relevant technical specifications necessary for developing IT reporting solutions producing uniform resolution reporting.

Part Two

Validation rules

The data items set out in the annexes to this Regulation shall be subject to validation rules ensuring data quality and consistency.

The validation rules shall meet the following criteria:

- (a) define the logical relationships between relevant data points;



- (b) include filters and preconditions that define a set of data to which a validation rule applies;
- (c) check the consistency of the reported data;
- (d) check the accuracy of the reported data;
- (e) set default values which shall be applied where the relevant information has not been reported.

4. Accompanying documents

4.1 Cost–benefit analysis/impact assessment

Article 45(j) of the BRRD requires that the EBA develop ITS to specify uniform forms, templates and definitions for the provision of information to the EBA under the same article, repealing Commission Implementing Regulation (EU) 2018/308.

Article 15(1) of Regulation (EU) No 1093/2010 of the European Parliament and of the Council (the EBA Regulation) provides that, when any ITS developed by the EBA are submitted to the Commission for adoption, they should be accompanied by an analysis of ‘the potential related costs and benefits’. This analysis should provide an overview of the findings regarding the problem to be dealt with, the solutions proposed and the potential impact of these options.

This analysis presents the impact assessment of the main policy options included in the Consultation Paper on the draft ITS on reporting on MREL decisions by authorities to the EBA. The assessment is high level and qualitative in nature.

4.1.1 Problem definition

The amendments to the BRRD address gaps in the existing resolution regulatory framework and reflect international developments that occurred after the agreement of the BRRD in the EU. The amendments introduce the total loss-absorbing capacity standards for global systemically important institutions in the EU, including new provisions regarding MREL subordination levels. The new framework further complements MREL provisions applicable to resolution entities and to entities that are not themselves resolution entities.

Resolution authorities submitting resolution information to the EBA currently follow the specifications of Commission Implementing Regulation (EU) 2018/308,¹ which was drafted based on the existing BRRD. The reporting templates developed under the existing ITS do not cover essential components of BRRD2, such as the resolution strategy, the subordination level and the senior debt allowance.

If the reporting templates are not amended to reflect the missing elements, the EBA may face problems in assessing the approaches of the competent authorities and resolution authorities regarding the implementation at national level of BRRD2. This information is crucial for EBA’s monitoring purposes and therefore in promoting the consistent application of the legal framework on MREL.

Additional provisions regarding individual MREL requirements under BRRD2 increase the need for cooperation across resolution authorities and between resolution and competent authorities.

¹ EBA (2017), [ITS on MREL reporting by resolution authorities](#).



Without explicit instructions to resolution authorities on how to provide the amended templates to the EBA, the achievement of an orderly process for submitting information might not be possible.

4.1.2 Objectives

At a high level, the ITS are expected to contribute to the general objectives of a clear, harmonised and consistent level of banking regulation across the EU.

More specifically, the ITS amend the existing ITS on reporting on MREL decisions to include the changes introduced by BRRD2. Thus, they promote a common framework that is expected to achieve consistent and systematic reporting that enables the EBA to conduct a meaningful comparison of the approaches of the resolution authorities when exercising their discretion under BRRD2.

The ITS further aim to promote an orderly process for submitting information to the EBA, helping to achieve enhanced cooperation across authorities.

At a technical level, the ITS set out minimum procedural obligations covering reporting periods and submission dates, as well as templates to be used by resolution authorities when informing the EBA of the MREL they have set under BRRD2.

4.1.3 Baseline scenario

Under the baseline scenario, resolution authorities report resolution information to the EBA under the existing ITS on MREL reporting. Under this scenario, the amendments to BRRD2, relating in particular to MREL subordination levels and the MREL applied on an individual level, are not reflected, and the problem of missing information about BRRD2 specifications persists.

In the absence of common formats, templates and definitions for the purposes of reporting these provisions to the EBA, the EBA may have difficulty in identifying variations in approaches to implementing BRRD2.

Furthermore, the existing ITS do not clearly assign reporting responsibilities in the case of joint decisions on entities' MREL. Without amendments to the ITS, the process for reporting the MREL of those entities will remain unclear.

4.1.4 Options considered

The amended MREL provisions under BRRD2 provide details on the application of the loss-absorbing amount (LAA) and recapitalisation amount (RCA) on consolidated and individual levels to institutions. In general, the application of MREL decisions largely depends on the size of the institution and its systemic importance within the resolution group and to the overall financial system. Institutions can be eligible for a waiver under Article 45f(3), 45f(4) or 45g of Directive 2014/59/EU. In addition, for institutions that are subject to liquidation under national insolvency law rather than the use of resolution tools, the RCA is not applicable. In line with the



principle of proportionality, the following options have been considered for the reporting requirements of those institutions.

Option A: Request simplified reporting under Annexes I and II for institutions exempted from MREL and for institutions not subject to RCA and without adjustment to their LAA

Under Option A, resolution authorities report only the simplified Annex I template, which requests only identification information, for entities that are exempted from the application of MREL requirements. The simplified template can also be used for institutions without an RCA requirement and without adjustment to their LAA.

Option B: Request extended simplified reporting under Annexes I and II, including balance sheet data, for institutions exempted from MREL requirements and institutions not subject to RCA and without adjustment to their LAA

Under Option B, resolution authorities report a simplified Annex template for entities that are exempted from the application of MREL requirements and for all entities to which the RCA does not apply and without adjustment to their LAA, but they provide a minimum set of balance sheet data.

4.1.5 Cost–benefit analysis and preferred options

Annex I to the ITS on MREL reporting to the EBA includes information on MREL decisions. The template provides high-level information on the identification of the entity, waiver application and the resolution strategy for the institution. The templates further collect detailed information on resolution requirements, balance sheet items and resolution instruments under the preferred resolution strategy, which feeds into the MREL decisions and allows the EBA to analyse and compare decisions.

Option A benefits from the retention of the existing reporting scope. Resolution authorities apply the same rules on simplified reporting as under the existing ITS, where only identification and waiver information are required.² This reduces the reporting burden to the minimum by allowing simplified reporting for all institutions subject to waiver or liquidation under national insolvency law. However, under Option A, resolution authorities do not report information that could be used to analyse the EU population of waived institutions or institutions for which the strategy is liquidation.

Options B benefits from a similar application to the existing reporting instructions. Resolution authorities can apply simplified reporting for institutions subject to waiver or institutions without RCA requirements or amended LAA, but also have to provide more granular data by including balance sheet information. The collection of this information is not required under the existing ITS, and, given the high number of small institutions subject to simplified reporting, this will increase

² The data points required differ between the existing reporting and the reporting under Option A; however, the type of information requested remains the same.



the reporting burden for resolution authorities, with only limited benefits for the EBA's analysis of the population of those institutions.

Option A applies the principle of proportionality by requiring granular data for institutions for which additional information is crucial for resolution purposes and at the same time provides the flexibility to reduce the reporting burden to the minimum by retaining simplified reporting for smaller institutions.

Option A is selected.



4.2 Views of the Banking Stakeholder Group

The Banking Stakeholder Group did not submit a response to the draft ITS set out in EBA/CP/2020/17.

4.3 Feedback on the public consultation

The EBA publicly consulted on the draft proposal contained in this paper.

The consultation period lasted for 3 months and ended on 24 October 2020. No responses were received.