

GL on how information should be provided in summary or collective form

Resolution Unit

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Outline

- 1. Mandate
- 2. Goals of the GL and the main provisions
- 3. Specific questions for public consultation and next steps



1. Mandate



1.1. Mandate – level 1 text

EBA mandate	Article 84(7) of the BRRD requires EBA to issue guidlines to specify <u>how</u> <u>information should be provided in summary or collective form</u> for the purposes of Article 84(3).
General rule	Article 84(3) says that without prejudice to the generality of the requirements under Article 84(1), the persons referred to in that paragraph shall be prohibited from disclosing confidential information received during the course of their professional activities or from a competent authority or resolution authority in connection with its functions under the BRRD, to any person or authority <u>unless</u> :
Exemptions from the general rule	 it is in the exercise of their functions under the BRRD; or with the express and prior consent of the authority or the institution or the relevant entity which provided the information; or <u>in summary or collective form such that individual institutions or relevant entities cannot be identified</u>.

The guidelines (GL) relate to those cases when the defined persons are disclosing confidential information in summary or collective form such that individual institutions or relevant entities cannot be identified.

Note: level 1 text does not give the definition of 'confidential information'.

1.2. Scope of Application

The GL shall be applied by the persons as referred to in Article 84(1) of the BRRD:

- (a) resolution authorities;
- (b) competent authorities and EBA;
- (c) competent ministries;
- (d) special managers or temporary administrators appointed under this Directive;
- (e) potential acquirers that are contacted by the competent authorities or solicited by the resolution authorities, irrespective of whether that contact or solicitation was made as preparation for the use of the sale of business tool, and irrespective of whether the solicitation resulted in an acquisition;
- (f) auditors, accountants, legal and professional advisors, valuers and other experts directly or indirectly engaged by the resolution authorities, competent authorities, competent ministries or by the potential acquirers referred to in point (e);

- (g) bodies which administer deposit guarantee schemes;
- (h) bodies which administer investor compensation schemes;
- (i) the body in charge of the resolution financing arrangements;
- (j) central banks and other authorities involved in the resolution process;
- (k) a bridge institution or an asset management vehicle;
- (I) any other persons who provide or have provided services directly or indirectly, permanently or occasionally, to persons referred to in points (a) to (k);
- (m) senior management, members of the management body, and employees of the bodies or entities referred to in points (a) to (k) before, during and after their appointment.





2. Goals of the GL and the Main Provisions



2.1. Goals of the GL

- To achieve an appropriate level of convergence of practices as to how confidential information should be provided in summary or collective form;
- To ensure flexibility, considering that there might be many different types of confidential information as well as circumstances and situations when confidential information is being disclosed in summary or collective form;
- To define principles in the GL which guide authorities as to the aspects that have to be considered in order to eliminate the risk of identification of individual institutions or relevant entities.



2.2. General Rule & Principle Based Factors

General rule (Art. 9) The information should be provided either by means of a brief statement or on an aggregate basis, in anonymised form. Principle based factors (Art. 10) Confidential Number of institutions [3]. As a general rule the draft GL limits disclosure of information confidential information which relates to fewer than 3 institutions or relevant entities. disclosure in Given that there might not in all cases be 3 institutions to which the information relates, the GL clarifies that disclosure can be made if, considering two other factors summary or there is no risk of identification of the individual institutions or relevant entities. collective form such that individual i) Specific patterns. This factor requires the avoidance of any references to institutions cannot specific characteristics, distinctive features, names or to numerical, gualitative or be identified other distinctive data which would allow the identification of the individual institutions or entities. ii) Context of disclosure. This factor requires the avoidance of disclosure of confidential information when a set of circumstances such as the means of the disclosure, the number and the characteristics of the addressees, the timing of the disclosure and any other distinctive circumstance create a risk that the individual institutions or entities will be identifiable.



3. Specific Questions for Public Consultation and Next Steps



3.1. Specific Questions

- 1. Do you agree with the principle based factors which have to be considered before disclosing information in summary or collective form such that individual institution should not be identified?
- 2. If no, what other principle based factors might be useful to introduce?



3.2. Next Steps

• Consultation closes on 27 January 2016

• GL to be finalised in Q1 2016







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