

EBA/CP/2014/26

25 September 2014

Consultation Paper

Draft Implementing Technical Standards

On the uniform formats, templates and definitions for the identification and transmission of information by competent authorities and resolution authorities to the EBA for the purposes of Article 4(7) of the Bank Recovery and Resolution Directive

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1. Responding to this Consultation

The EBA invites comments on all proposals put forward in this paper and in particular on the specific questions summarised in 5.2.

Comments are most helpful if they:

- respond to the question stated;
- indicate the specific point to which a comment relates;
- contain a clear rationale;
- provide evidence to support the views expressed/rationale proposed; and
- describe any alternative regulatory choices the EBA should consider.

Submission of responses

To submit your comments, click on the 'send your comments' button on the consultation page by 03.01.2015. Please note that comments submitted after this deadline, or submitted via other means, may not be processed.

Publication of responses

Please clearly indicate in the consultation form if you wish your comments to be disclosed or to be treated as confidential. A confidential response may be requested from us in accordance with the EBA's rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the EBA's Board of Appeal and the European Ombudsman.

Data protection

The protection of individuals with regard to the processing of personal data by the EBA is based on Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 as implemented by the EBA in its implementing rules adopted by its Management Board. Further information on data protection can be found under the Legal notice section of the EBA website.

2. Executive Summary

Pursuant to Article 4(1) of Directive 2014/59/EU (BRRD) competent authorities and resolution authorities may apply simplified obligations with regard to:

- the contents and details of recovery and resolution plans provided for in Articles 5 to 12 of the BRRD;
- the date by which the first recovery and resolution plans are to be drawn up and the frequency for updating recovery and resolution plans which may be lower than that provided for in Article 5(2), Article 7(5), Article 10(6) and Article 13(3) of the BRRD;
- the contents and details of the information required from institutions as provided for in Article 5(5), Article 11(1) and Article 12(2) and in Sections A and B of the Annex of the BRRD; and
- the level of detail for the assessment of resolvability provided for in Articles 15 and 16 and Section C of the Annex of the BRRD.

Competent authorities and resolution authorities should decide the level of detail regarding these requirements for each institution after having regard to the impact that the failure and subsequent winding up of the institution under normal insolvency proceedings could have on financial markets, on other institutions, on funding conditions, or on the wider economy taking account of the criteria in Article 4(1) of the BRRD and as specified in the Guidelines published by the EBA under Article 4(5) of the BRRD.¹

Competent authorities and resolution authorities may also waive the application of requirements under relevant Sections of Chapter 1 (recovery and resolution planning) of Title II (preparation) of the BRRD in relation to institutions affiliated to a central body or wholly or partially exempted from prudential requirements in national law in accordance with Article 10 of Regulation (EU) No 575/2013 and institutions which are members of an institutional protection scheme (IPS).

Institutions subject to direct supervision by the ECB pursuant to Article 6(4) of Regulation (EU) No 1024/2013 or constituting a significant share in the financial system of a Member State shall draw up their own recovery plans in accordance with Section 2 (recovery planning) of Chapter 1 (recovery and resolution planning) and shall be the subject of individual resolution plans in accordance with Section 3 (resolution planning) of Chapter 1 of Title II of the BRRD (Article 4(10) of the BRRD).

¹ The EBA's Consultation Paper on the draft Guidelines on the application of simplified obligations under Article 4 of the Bank Recovery and Resolution Directive (BRRD) is available here: <https://www.eba.europa.eu/regulation-and-policy/recovery-and-resolution/guidelines-on-simplified-obligations>

Article 4(7) of the BRRD requires the EBA, by 31 December 2017, to submit a report to the European Parliament, to the Council and to the Commission on the way the Member States have applied Article 4(1), (8) and (9) and (10) of the BRRD. The report must identify any divergences of approach between the Member States.

The EBA shall develop draft implementing technical standards (ITS) to specify uniform formats, templates and definitions for the identification and transmission of information by competent authorities and resolution authorities to the EBA for the purposes of Article 4(7) of the BRRD, subject to the principle of proportionality (Article 4(11) of the BRRD).

This Consultation Paper concerns the EBA's proposed draft ITS which includes three draft reporting templates which it is proposed shall be used by competent authorities and resolution authorities for the purposes of reporting under Article 4 of the BRRD.

These templates establish a common and systematic framework for reporting by competent authorities and resolution authorities which will enable the EBA to conduct a detailed comparison of the approaches of the authorities when exercising their discretions pursuant to Article 4(1), (8), (9) and (10) of the BRRD. This will enable the EBA to identify accurately any divergences of the approach of the authorities in its report of the European Parliament, the Council and the Commission pursuant to Article 4(7) of the BRRD.

In summary:

- Template 1 relates to quantitative data and also information relevant to assessing the approach of the authorities to the application of Article 4(10) of the BRRD;
- Template 2 relates to the approach of the authorities in relation to the application of simplified obligations under Article 4(1) of the BRRD;
- Template 3 relates to the approach of the authorities in relation to the granting of waivers under Article 4(8) and (9) of the BRRD.

3. Background and rationale

Objective

Directive 2014/59/EU (BRRD) sets out requirements for institutions and parent undertakings (in relation to groups) to draw up and maintain recovery plans on an annual basis, and to provide information relevant for the development of resolution plans, and to submit that material to, respectively, the competent authorities and the resolution authorities. The information to be included in the recovery plans is set out in Section A of the Annex of the BRRD and is further specified in the EBA's draft Regulatory Technical Standards (RTS) on the Content of Recovery Plans.² The BRRD also sets out requirements for resolution authorities to draw up and maintain resolution plans for institutions and groups. Articles 10(7) and 12(3) of the BRRD specify the information to be included in resolution plans for, respectively, institutions and groups and as further specified in the EBA's draft RTS on the content of resolution plans and the assessment of resolvability.³ Article 11 and Section B of the Annex of the BRRD list the information resolution authorities may request for the purposes of drawing up and maintaining resolution plans. The BRRD further requires resolution authorities to carry out resolvability assessments for institutions and groups (Articles 10(2), 12(4), 15 and 16 of the BRRD).

These requirements regarding recovery planning, resolution planning and resolvability assessments should be applied proportionately reflecting *inter alia* the systemic importance of the institution concerned.

Article 4(1) of the BRRD requires Member States to ensure that competent authorities and resolution authorities shall decide the level of detail regarding these requirements for institutions having regard to the criteria specified in that paragraph as further specified in the EBA's Guidelines under Article 4(5) of the BRRD.⁴

Article 4(8) of the BRRD also requires Member States to ensure that competent authorities and resolution authorities can grant waivers from specified requirements regarding recovery and

² The EBA's draft RTS and Guidelines on recovery plans are available here: <http://www.eba.europa.eu/-/eba-publishes-final-draft-technical-standards-and-guidelines-on-recovery-plans>.

³ The EBA's Consultation Paper on the draft RTS on the content of resolution plans and the assessment of resolvability is available [here: http://www.eba.europa.eu/news-press/calendar?p_p_id=8&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-1&p_p_col_count=1&_8_struts_action=%2Fcalendar%2Fview_event&_8_redirect=http%3A%2F%2Fwww.eba.europa.eu%2Fnews-press%2Fcalendar%3Fp_p_id%3D8%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-1%26p_p_col_count%3D1%26_8_tabs%3Devents%26_8_eventTypes%3Dconsultation%252Cdiscussion&_8_eventId=751474](http://www.eba.europa.eu/news-press/calendar?p_p_id=8&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-1&p_p_col_count=1&_8_struts_action=%2Fcalendar%2Fview_event&_8_redirect=http%3A%2F%2Fwww.eba.europa.eu%2Fnews-press%2Fcalendar%3Fp_p_id%3D8%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-1%26p_p_col_count%3D1%26_8_tabs%3Devents%26_8_eventTypes%3Dconsultation%252Cdiscussion&_8_eventId=751474).

⁴ The BRRD requires the EBA to issue guidelines under Article 4(5) of the BRRD about the criteria in Article 4(1), and only after some experience is acquired with the application of the Guidelines, prepare draft regulatory technical standards (RTS) to specify the above mentioned criteria (Article 4(6) of the BRRD). The Guidelines are available here: [\[to insert\]](#).

resolution planning to institutions affiliated to a central body and wholly or partially exempted from prudential requirements in national law in accordance with Article 10 of Regulation (EU) No 575/2013 and institutions which are members of an institutional protection scheme (IPS). Article 4(10) of the BRRD specifies that institutions subject to direct supervision by the ECB pursuant to Article 6(4) of Regulation (EU) No 1024/2013 or constituting a significant share in the financial system of a Member State shall draw up their own recovery plans in accordance with Section 2 (recovery planning) of Chapter 1 (recovery and resolution planning) and shall be the subject of individual resolution plans in accordance with Section 3 (resolution planning) of Chapter 1 of Title II of the BRRD and may not benefit from waivers. An institution shall be considered as constituting a significant share of a Member State's financial system if the total value of its assets exceeds €30,000,000,000 or the ratio of its total assets over GDP of the Member State of establishment exceeds 20% unless the total value of its assets is below €5,000,000,000.

Article 4(7) of the BRRD requires the EBA to report to the European Parliament, to the Council and to the Commission on the way the competent authorities and the resolution authorities have applied Article 4(1), (8), (9) and (10) of the BRRD. For this purpose the competent authorities and the resolution authorities shall inform the EBA of the way they have applied these paragraphs. The EBA must identify 'any divergences regarding the implementation at national level of [Article 4(1), (8), (9) and (10) of the BRRD]' in its report.

Content

Pursuant to Article 4(11) of the BRRD the EBA shall develop draft implementing technical standards (ITS) to specify uniform formats, templates and definitions for the identification and transmission of information by the competent authorities and the resolution authorities to the EBA for the purposes of Article 4(7) of the BRRD, subject to the principle of proportionality. The draft ITS set out in this Consultation Paper includes draft reporting templates for this purpose.

Obligation to report

The competent authorities and the resolution authorities each have the discretion to apply simplified obligations and to grant waivers in relation to, respectively:

- (i) requirements relating to recovery planning (e.g. regarding the contents and details of recovery plans);
- (ii) requirements relating to resolution planning and resolvability assessments (e.g. regarding the contents and details of resolution plans and the level of detail for the assessment of resolvability). (See Article 4(1)(a) to (d) of the BRRD.)

Therefore in order to enable the EBA to assess the way each type of authority has applied their respective discretions, the competent authorities and the resolution authorities must each report to the EBA on their approaches. However, to minimise the burden on the authorities when reporting on their approaches it is proposed that, where the competent authorities and the resolution authorities of a Member State use the same basis for determining whether an

institution should be subject to simplified obligations under Article 4(1) or waivers under Article 4(8) of the BRRD, it should be possible for the authorities to submit reports to the EBA on a joint basis providing that the authorities complete their respective parts of the reporting templates set out in Annex I of the draft ITS.

Reporting periods

In order to prepare the report for the European Parliament, the Council and the Commission it is important for the EBA to obtain from the competent authorities and the resolution authorities a range of information across the longest possible period from the deadline for transposing the relevant provisions of the BRRD (1 January 2015) to the deadline for the production of EBA's report (31 December 2017). Therefore it is proposed that the competent authorities and the resolution authorities prepare two reports in this period in order for the EBA to assess the evolving practices of the authorities. It is proposed that the first reporting period shall run from 1 January 2015 to 30 April 2016 and the second reporting period shall run from 1 May 2016 to 30 April 2017 (see Article 5 of the draft ITS).

Overview of the templates

In order to facilitate reporting by the competent authorities and the resolution authorities and in order to ensure that the EBA receives readily comparable information it is proposed that the authorities use the three templates set out in Annex I of the draft ITS when reporting under Article 4(7) of the BRRD. In summary:

- **Template 1** relates to quantitative data and also information relevant to assessing the approach of the authorities to the application of Article 4(10) of the BRRD;
- **Template 2** relates to the approach of the authorities in relation to the application of simplified obligations under Article 4(1) of the BRRD;
- **Template 3** relates to the approach of the authorities in relation to the granting of waivers under Article 4(8) and (9) of the BRRD.

Approach to reporting on institutions

In order for the EBA to report on the application of simplified obligations and waivers it is necessary for the EBA to understand the approach in relation to all institutions established in the Member States which are subject to such treatment.

The competent authorities and the resolution authorities may choose to apply simplified obligations or grant waivers on an institution-by-institution basis or in relation to categories of institutions which share similar characteristics (e.g. in terms of size, business activities and risk profile).

A requirement for the competent authorities and the resolution authorities to report on a case-by-case basis in all cases where the supervisory or resolution practice is to apply types of simplified obligations to institutions sharing specified characteristics would be disproportionate. Therefore it is proposed that the competent authorities and the resolution authorities should have the option to report on an 'individual' or 'category' basis (for example, using the categories set out in the EBA's Draft Guidelines for common procedures and methodologies for the supervisory review and evaluation process under Article 107(3) of Directive 2013/36/EU) depending on the approach in the Member State concerned. So, for instance, if the competent authorities and the resolution authorities consider the majority of institutions on a 'category' basis but also consider some institutions on an institution-specific basis (e.g. to take account of 'outlying' institutions), the draft reporting templates should be completed for individual institutions and for the relevant categories of institution. In any case the competent authorities and the resolution authorities must ensure that their reports to the EBA, overall, cover all institutions established in the Member State concerned.

Where the competent authorities and the resolution authorities report on a 'category' basis, in order to help the EBA interpret the categories established by the authorities and therefore assist the EBA in analysing the approach of the authorities to the application of simplified obligations and waivers and to conduct effective peer reviews it is important for the authorities to provide the Legal Entity Identifier (LEI) numbers or, where LEI numbers are not available, the names of the institutions within each category. It is not proposed that the names of the institutions within each category shall be included in the EBA's report on the practices of the authorities under Article 4(7) of the BRRD.

Template 1: Quantitative data relating to Article 4(1) and (8) and information relating to Article 4(10) of the BRRD

The EBA's report under Article 4(7) of the BRRD will involve a qualitative assessment of the practices of the competent authorities and the resolution authorities. However, it will also involve an assessment of the extent to which, in quantitative terms, the competent authorities and the resolution authorities apply full (or simplified) obligations to the institutions established in their jurisdiction.

In order for the EBA to provide to the European Parliament, the Council and the Commission a 'snapshot' of the number of institutions (separately, credit institutions and investment firms) to which simplified obligations or waivers have been applied under Article 4(1) or Article 4(8) of the BRRD relative to the total number of institutions established in the Member State concerned it is proposed that the competent authorities and the resolution authorities provide to the EBA quantitative data in accordance with Template 1 in Annex I of the draft ITS.

It is also proposed that, in order to report on the implementation of Article 4(10) of the BRRD, the competent authorities report to the EBA on the number and name of the institutions considered

to constitute a significant share in the financial system of their Member State⁵ (see the last row of Template 1 in Annex I of the draft ITS). For those institutions that are considered ‘significant’ individual recovery and resolution plans shall be required (Article 4(10) of the BRRD) and therefore those institutions are ineligible for waivers under Article 4(8) of the BRRD.

Template 2: Information relating to Article 4(1) of the BRRD

Template 2 concerns the application of simplified obligations under Article 4(1) of the BRRD.

In summary, for each institution or category of institution to which the report relates, the competent authority (or, as the case may be, the resolution authority) must describe the basis for determining, having regard to the criteria set out in Article 4(1) of the BRRD that the failure and subsequent winding up of the institution under normal insolvency proceedings would not be likely to have a significant negative effect on financial markets, on other institutions, on funding conditions, or on the wider economy.

The competent authorities and the resolution authorities must include a description of the simplified obligations applied to the institution or institutions concerned. This should be done by reference to the ‘full’ obligations as set out in the relevant Articles of the BRRD, the relevant Section of the Annex of the BRRD and the EBA’s RTSs on recovery planning and resolution planning.⁶ So, for example, a resolution plan for institutions that do not provide clearing and settlement services need not include ‘a description of options for preserving access to payments and clearing services and other infrastructures and an assessment of the portability of client positions’ (Article 10(7)(l) of the BRRD).

Template 3: Information relating to Article 4(8) of the BRRD

Template 3 relates to the granting of waivers under Article 4(8) of the BRRD.

The consequence of a determination that an institution is eligible for a waiver is set out in Article 4(9) of the BRRD. As such, the competent authorities and the resolution authorities are required only to report on the basis on which the institution or institutions in question are eligible for a waiver i.e. whether:

- the institution is affiliated to a central body and wholly or partially exempted from prudential requirements in national law in accordance with Article 10 of Regulation (EU) No 575/2013; or
- the institution is a member of an institutional protection scheme (IPS).

⁵ Article 4(10) of the BRRD specifies when an institution is to be considered as constituting a ‘significant share’ of a Member State’s financial system (i.e. those institutions subject to direct supervision by the ECB under Article 6(4) of Regulation (EU) No 1024/2013 and those institutions whose total asset value exceeds EUR 30 000 000 000 or whose ratio of total assets over GDP exceeds 20% unless the total value of its assets is below EUR 5 000 000 000).

⁶ See footnotes 2 and 3.

Waivers may not be granted in relation to institutions that are significant in accordance with Article 4(10) of the BRRD.

4. Draft ITS on the uniform formats, templates and definitions for the identification and transmission of information by competent authorities and resolution authorities to the EBA for the purposes of Article 4(7) of the Bank Recovery and Resolution Directive

In between the text of the draft ITS that follows, further explanations on specific aspects of the proposed text are occasionally provided, which either offer examples or provide the rationale behind a provision, or set out specific questions for the consultation process. Where this is the case, this explanatory text appears in a framed text box.

COMMISSION IMPLEMENTING REGULATION (EU) No .../... laying down implementing technical standards with regard to uniform formats, templates and definitions for the identification and transmission of information by competent authorities and resolution authorities to the EBA according to Directive 2014/59/EU of the European Parliament and of the Council

of **XXX**

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2014/59/EU of 15 May 2014 of the European Parliament and of the Council on 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,⁷ and in particular Article 4(11) thereof,

Whereas:

⁷

OJ L [...], [xx.xx.XXXX, p...].

- (1) Chapter 1 and 2 of Title II of Directive 2014/59/EU require recovery plans and resolution plans to be prepared and resolvability assessments to be carried out for institutions.
- (2) Article 4(1) of Directive 2014/59/EU provides that simplified obligations may be applied to an institution where, having regard to the criteria referred to thereof, and the Guidelines prepared by the European Supervisory Authority (European Banking Authority) (EBA) under Article 4(5) of the Directive, the competent and resolution authorities determine that the institution's failure and subsequent winding up under normal insolvency proceedings would not be likely to have a significant negative effect on financial markets, on other institutions, on funding conditions, or on the wider economy.
- (3) Subject to Article 4(9) and (10) of Directive 2014/59/EU, Article 4(8) requires Member States to ensure that competent authorities and resolution authorities may waive the application of the requirements of Sections 2 and 3 of Chapter 1 of Title II of the Directive (recovery and resolution planning) to institutions affiliated to a central body and wholly or partially exempted from prudential requirements in national law in accordance with Article 10 of Regulation (EU) No 575/2013. Article 4(10) of Directive 2014/59/EU specifies that institutions subject to direct supervision by the ECB pursuant to Article 6(4) of Regulation (EU) No 1024/2013 or those institutions, according to criteria referred to thereof, constitute a significant share in the financial system of a Member State shall draw up their own recovery plans in accordance with Section 2 of Chapter 1 of Title II of the Directive and shall be the subject of individual resolution plans in accordance with Section 3 of the Chapter.
- (4) Article 4(7) of Directive 2014/59/EU requires competent authorities and resolution authorities to inform the EBA of the way they have applied paragraphs (1), (8), (9) and (10) of Article 4 of Directive 2014/59/EU to institutions in their jurisdiction.
- (5) The EBA shall submit a report to the European Parliament, to the Council and to the Commission by 31 December 2017 on the implementation of paragraphs (1), (8), (9) and (10) of Article 4 of Directive 2014/59/EU. In particular that report shall identify any divergences of approach in implementation.
- (6) Article 4(11) of Directive 2014/59/EU requires the EBA to develop draft implementing technical standards to specify uniform formats, templates and definitions for the identification and transmission of information by competent authorities and resolution authorities to the EBA for the purposes of Article 4(7) of Directive 2014/59/EU, subject to the principle of proportionality. This Regulation is based on the draft implementing technical standards submitted by the EBA to the Commission.
- (7) 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- Subject matter and scope

This Regulation lays down uniform formats, templates and definitions for the identification and transmission of information by competent authorities and resolution authorities to the EBA for the purposes of Article 4(7) of Directive 2014/59/EU (the Directive).

Article 2- Definitions

The definitions set out in the Directive shall apply for the purposes of this Regulation. In addition, for the purposes of this Regulation the following definition shall apply:

‘category of institution’ means two or more institutions which share similar characteristics in terms of some or all of the criteria specified in Article 4(1) of the Directive.

Article 3- Information to be submitted by competent authorities

1. In order to report on the application of simplified obligations in relation to:
 - (a) the contents and details of recovery plans;
 - (b) the date by which the first recovery plans are to be drawn up and the frequency for updating recovery plans, which may be lower than that provided for in Article 5(2) and Article 7(5) of the Directive,
 competent authorities shall submit to the EBA, for each reporting period specified in Article 5, the information referred to in paragraph (2).
2. Competent authorities shall submit the following information:
 - (a) the number of credit institutions and the number of investment firms established in the Member State;
 - (b) the number of credit institutions and the number of investment firms for which simplified obligations have been applied under Article 4(1) of the Directive for the purposes of recovery planning;
 - (c) the number of credit institutions and the number of investment firms to which a waiver has been granted under Article 4(8) of the Directive;
 - (d) the Legal Entity Identifier numbers or, where these are not available, the names of the institutions established in the Member State subject to direct supervision by the European Central Bank pursuant to Article 6(4) of Regulation (EU) No 1024/2013 or constituting a significant share in the financial system of the Member State as defined in Article 4(10)(a) and (b) of the Directive;
 - (e) for each institution, or category of institution, to which simplified obligations have been applied under Article 4(1) of the Directive:
 - (i) the Legal Entity Identifier number or, where this is not available, the name of the institution or institutions falling within the category;
 - (ii) a description of the basis for determining that the failure and subsequent winding up of the institution(s) under normal insolvency proceedings would not be likely to have a significant negative effect on financial markets, on other institutions, on funding conditions, or on the wider economy, including by reference to the indicators specified in Template

- 2 of Annex I of this ITS and any optional indicators referred to in Annex II of this ITS;
- (iii) a description of the simplified obligations as compared to full obligations;
- (f) for each institution, or category of institution, to which a waiver has been granted under Article 4(8) of the Directive a description of the basis on which the waiver has been granted having regard to the criteria set out in Article 4(8)(a) and (b) of the Directive.
3. For the purposes of submitting the information required under paragraph (2) the competent authorities shall complete the corresponding provisions of each of the reporting templates in Annex I of this ITS.

Q1 and Q2:

Do you agree with the list of information the competent authorities are required to report to the EBA?

Do you agree with the approach set out in the reporting templates in Annex I?

Article 4- Information to be submitted by resolution authorities

1. In order to report on the application of simplified obligations in relation to:
- (a) the contents and details of resolution plans;
- (b) the date by which the first resolution plans are to be drawn up and the frequency for updating resolution plans, which may be lower than that provided for in Article 10(6) and Article 13(3) of the Directive,
- resolution authorities shall submit to the EBA, for each reporting period specified in Article 5, the information referred to in paragraph (2).
2. Resolution authorities shall submit the following information:
- (a) the number of credit institutions and the number of investment firms for which simplified obligations have been applied under Article 4(1) of the Directive for the purposes of resolution planning and resolvability assessments;
- (b) the number of credit institutions and the number of investment firms to which a waiver has been granted under Article 4(8) of the Directive;
- (c) for each institution, or category of institution, to which simplified obligations have been applied under Article 4(1) of the Directive:
- (i) the Legal Entity Identifier number or, where this is not available, the name of the institution or institutions falling within the category;
- (ii) a description of the basis for determining that the failure and subsequent winding up of the institution(s) under normal insolvency proceedings would not be likely to have a significant negative effect on financial markets, on other institutions, on funding conditions, or on the wider economy, including by reference to the indicators specified in Template 2 of Annex I of this ITS and any optional indicators referred to in Annex II of this ITS;

- (iii) a description of the simplified obligations as compared to full obligations;
 - (d) for each institution, or category of institution, to which a waiver has been granted under Article 4(8) of the Directive a description of the basis on which the waiver has been granted having regard to the criteria set out in Article 4(8)(a) and (b) of the Directive.
3. For the purposes of submitting the information required under paragraph (2) the resolution authorities shall complete the corresponding provisions of each of the reporting templates in Annex I of this ITS.

Q3 and Q4:

Do you agree with the list of information the resolution authorities are required to report to the EBA?

Do you agree with the approach set out in the reporting templates in Annex I?

Article 5- Reporting periods, remittance dates and reporting approach

1. The first reporting period shall commence on 1 January 2015 and shall end on 30 April 2016. The information relating to the first reporting period shall be remitted to the EBA by 1 June 2016.
2. The second reporting period shall commence on 1 May 2016 and end on 30 April 2017. The information relating to the second reporting period shall be remitted to the EBA by 1 June 2017.
3. The competent authority and the resolution authority in each Member State may choose to complete the reporting templates set out in Annex I on a joint basis providing that each authority completes the relevant parts of the template in relation to the simplified obligations applied, or waivers granted, for the purposes of recovery planning, resolution planning and resolvability assessments.

Q5 and Q6:

Do you agree with the reporting periods?

Do you agree that competent authorities and resolution authorities should be permitted to submit reports on a joint basis, for instance, where the authorities have taken an identical approach to the determination that an institution, or category of institution, is eligible for simplified obligations albeit that the nature of the simplified obligations (e.g. for recovery and resolution planning purposes) are likely to be different?

Article 6- Final provisions

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

It shall apply immediately.

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 – Reporting templates

Template 1

<u>Article 4 BRRD quantitative data report template</u>	
<i>[The notes included in this template are intended to assist the authorities when completing the template and do not form part of the template.]</i>	
Member State:	
Name of competent authority/resolution authority submitting the report:	
Reference date:	
Number of <u>credit institutions</u> established in the Member State:	
Number of <u>investment firms</u> established in the Member State:	
Number of <u>credit institutions</u> for which simplified obligations have been applied under Article 4(1) BRRD:	<i>[Figures should be provided by the relevant authority, separately, in relation to obligations relating to: recovery planning, resolvability assessments and resolution planning.]</i>
Number of <u>investment firms</u> for which simplified obligations have been applied under Article 4(1) BRRD:	<i>[Figures should be provided by the relevant authority, separately, in relation to obligations relating to: recovery planning, resolvability assessments and resolution planning.]</i>
Number of <u>institutions</u> to which a waiver has been granted under Article 4(8) BRRD:	
Legal Entity Identifier numbers or, where these are not available, the names of the institutions established in the Member State subject to direct supervision by the European Central Bank pursuant to Article 6(4) of Regulation (EU) No 1024/2013 or constituting a significant share in the financial system of a Member State as defined in Article 4(10) BRRD and are therefore ineligible for waivers pursuant to Article 4(8) BRRD:	<i>[Only competent authorities need complete this section of the template as it relates to supervisory classifications.]</i>

Template 2^A

<u>Article 4(1) BRRD report template</u>	
<i>[The notes included in this template are intended to assist the authorities when completing the template and do not form part of the template.]</i>	
Member State:	
Name of competent authority/resolution authority submitting the report:	<p><i>[Competent authorities and resolution authorities are expected to complete a report dealing with those institutions to which simplified obligations are applied in relation to, respectively, requirements as regards recovery plans and requirements relating to resolvability assessments and resolution plans (see the list in Article 4(1) BRRD).</i></p> <p><i>Competent and resolution authorities must report on all institutions to which simplified obligations are applied. In order to satisfy this requirement competent and resolution authorities may choose to complete this template on an institution-by-institution basis or with regard to specific categories of institution that have common characteristics and therefore are assessed the same way against the criteria listed in Article 4(1) BRRD.]</i></p>
Reference period:	
Name of category of credit institution or name of credit institution: [When reporting on a category basis, the LEI numbers should be provided for each institution in the category; where these are not available, the names of the institutions should be provided]	<p><i>[If the report is completed with regard to a specific category of institution, a description of the category, including the key characteristics of institutions in that category (e.g. by reference to SREP classification in accordance with the EBA's Guidelines under Article 107(3) of Directive 2013/36/EU , or other applicable classification system), must be provided. In addition, a list of the Legal Entity Identifier numbers, or in the absence of these numbers, the names of the institutions within that category must be provided.</i></p> <p><i>Where more than one category of institution exists, please a report must be completed for each category.]</i></p>

^A If indicator values in accordance with the definitions prescribed in this template are not available due to the fact that relevant entities, which fall within the scope do not report in IFRS and to which FINREP requirements do not apply competent and resolution authorities should use appropriate proxies. In this case, relevant authorities should ensure that those proxies are properly explained and correlate to the greatest extent possible with the definitions specified in this template.

Name of category of investment firm or name of investment firm: [When reporting on a category basis, the LEI numbers should be provided for each institution in the category; where these are not available, the names of the institutions should be provided]	[As above.]	
Number of institutions falling within category:	[This box need only be completed where the report relates to a category of credit institution or investment firm.]	
<p>Basis for determining, having regard to the relevant criteria set out in Article 4(1) BRRD, that the failure and subsequent winding up under normal insolvency proceedings of the [institutions falling within this category/institution] would not be likely to have a significant negative effect on financial markets, on other institutions, on funding conditions, or on the wider economy. The description must include quantitative information where possible.</p> <p><i>[Within this section please provide, having regard to the criteria set out in Article 4(1) BRRD, the mandatory indicators referred to in the template below and any optional indicators from the list in Annex II of the ITS against which the [institution or category of institution] has been assessed a description of the characteristics of the category of institution/institution to which simplified obligations are applied.]</i></p>		
<u>Criterion</u>	<u>Indicator</u>	<p style="text-align: center;"><u>Description of institution(s)</u></p> <p><i>[Please complete with quantitative data where indicated. Where the report is completed in relation to a category of institution, please provide quantitative data in the form of a range (e.g. total assets of euro Amount A to euro Amount B). In other places, please provide a narrative description.]</i></p>

<u>Size</u>	Total assets⁸	<i>[Please provide quantitative data.]</i>
	Total assets/Member State's GDP	<i>[Please provide quantitative data.]</i>
	Any indicators taken into account from the list of 'optional' indicators in Annex II of the ITS	
<u>Interconnectedness</u>	Interbank liabilities²	<i>[Please provide quantitative data.]</i>
	Interbank assets³	<i>[Please provide quantitative data.]</i>
	Debt securities outstanding⁴	<i>[Please provide quantitative data.]</i>
	Number of foreign subsidiaries and branches	<i>[Please provide quantitative data.]</i>
	Clearing, payment and settlement services provided to institutions and others	
	Any indicators taken into account from the list of 'optional' indicators in Annex II of the ITS	

¹ For the purposes of this template 'total assets' is to be calculated on a global basis in accordance with FINREP (IFRS or GAAP) — F 01.01, row 380 column 010.

² For the purposes of this template 'interbank liabilities' is to be calculated on a global basis in accordance with FINREP (IFRS or GAAP) → F 20.06, rows 020+030+050+060+100+110, column 010, All countries (z-axis).

³ For the purposes of this template 'interbank assets' is to be calculated on a global basis in accordance with FINREP (IFRS or GAAP) → F 20.04, rows 020+030+050+060+110+120+170+180, column 010, All countries (z-axis).

⁴ For the purposes of this template 'debt securities outstanding' is to be calculated on a global basis in accordance with FINREP (IFRS or GAAP) → F 01.02, rows 050+090+130, column 010.

Scope and complexity of activities	Value of OTC derivatives (notional)⁵	<i>[Please provide quantitative data.]</i>
	Cross-jurisdictional liabilities⁶	<i>[Please provide quantitative data.]</i>
	Cross-jurisdictional claims⁷	<i>[Please provide quantitative data.]</i>
	Total deposits	<i>[Please provide quantitative data.]</i>
	Total covered deposits	<i>[Please provide quantitative data.]</i>
	Any indicators taken into account from the list of ‘optional’ indicators in Annex II of the ITS	
Risk profile	Overall SREP score	
	SREP⁹ score assigned to capital adequacy	
	SREP score assigned to liquidity adequacy	
	SREP score assigned to internal governance and institution-wide controls	
	Any indicators taken into account from the list of ‘optional’ indicators in Annex II of the ITS	

⁵ For the purposes of this template ‘value of OTC derivatives (notional)’ is to be calculated on a global basis in accordance with: FINREP (IFRS) → F 10.00, rows 300+310+320, column 030 + F 11.00, rows 510+520+530, column 030 or FINREP (GAAP) → F 10.00, rows 300+310+320, column 050 + F 11.00, rows 510+520+530, column 030.

⁶ For the purposes of this template ‘cross-jurisdiction liabilities’ is to be calculated on a global basis in accordance with FINREP (IFRS or GAAP) → F 20.06, rows 010+040+070, column 010, All countries except home country (z-axis). Note: The calculated value should exclude i) intra-office liabilities and ii) liabilities of foreign branches and subsidiaries vis-à-vis counterparties in the same host country.

⁷ For the purposes of this template ‘cross-jurisdictional claims’ is to be calculated on a global basis in accordance with FINREP (IFRS or GAAP) → F 20.04, rows 010+040+080+140, column 010, All countries except home country (z-axis). Note: The calculated value should exclude i) intra-office assets and ii) assets of foreign branches and subsidiaries vis-à-vis counterparties in the same host country.

⁸ The reference to SREP means the categories set out in the EBA’s Draft Guidelines for common procedures and methodologies for the supervisory review and evaluation process under Article 107(3) of Directive 2013/36/EU.

<u>Legal status</u>	Regulatory permissions and authorisations, in particular in relation to the use of advanced models for the calculation of own funds requirements for credit, market and operational risk	<i>[Please provide a description of the regulated activities for which the institution has permission to carry on and describe whether advanced models are used (and, if so, please describe the model applied).]</i>
	Any indicators taken into account from the list of ‘optional’ indicators in Annex II of the ITS	
<u>Nature of business</u>	SREP score assigned to business model and strategy	
	The institution’s position in the jurisdictions in which it operates in terms of the critical functions and core business lines offered in each jurisdiction and the market share of the institution	
	Any indicators taken into account from the list of ‘optional’ indicators in Annex II of the ITS	
<u>Shareholding structure</u>	Degree of concentration of shareholders	<i>[Please include in your response the % shareholding held by the top 5 shareholders of ordinary shares.]</i>
	Any indicators taken into account from the list of ‘optional’ indicators in Annex II of the ITS	

<u>Legal form</u>	Structure of the institution: is the institution part of a group and, if so, does the group has a complex, highly interconnected structure	
	The type of incorporation of the institution (e.g. private limited company, limited liability company or other type of company defined in national law)	
	Any indicators taken into account from the list of ‘optional’ indicators in Annex II of the ITS	
<u>Membership of an ITS or other cooperative mutual solidarity system as referred to in Article 113(7) of Regulation (EU) No 575/2013</u>	Function of the institution in the system as participant or central institution or as a provider of critical functions to the system	<i>[Please provide a description of the function of the institution in the system (e.g. as participant or central institution or as provider of critical functions to other participants, or potentially as a party exposed to the scheme’s concentration risk).]</i>
	Relative size of the guarantee fund vs the institution’s total funds	<i>[Please provide quantitative data.]</i>
	Any indicators taken into account from the list of ‘optional’ indicators in Annex II of the ITS	
Other remarks:		<i>[Please provide a description of any other factors which were taken into account in making the determination referred to above.]</i>

<p>Description of simplified obligations applied to the category of institution/institution: <i>[Within this section please provide, having regard, as relevant, to:</i></p> <ul style="list-style-type: none"> - <i>the relevant Articles of the BRRD set out in the relevant row of the table;</i> - <i>Section A of the Annex of the BRRD and the EBA's RTS on the content of recovery plans;</i> - <i>Section B of the Annex of the BRRD and the EBA's RTS on resolution plan requirements;</i> - <i>Section C of the Annex of the BRRD,</i> <p><i>a description of the difference between full obligations and the applicable simplified obligations.]</i></p>	
<p>Describe the simplified obligations as regards the contents and details of recovery plan:</p>	<p><i>[Please describe the difference between full obligations and the applicable simplified obligations (i.e. what is it that the institution does not/the institutions do not need to comply with), for example, having regard to the list in Section A of the Annex of the BRRD and the EBA's RTS on the content of recovery plans, which elements are not required pursuant to the simplified obligations applied to the category of institution/institution.]</i></p>
<p>Describe the simplified obligations as regards the contents and details of resolution plan:</p>	
<p>When was/is the first recovery plan/resolution plan to be drawn up and how frequently is it to be updated:</p>	
<p>Describe the simplified obligations as regards the contents and details of information required to be provided under Article 5(5), Article 11(1) and Article 12(2) and in Sections A and B of the Annex of the BRRD:</p>	
<p>Describe the simplified obligations as regards the level of detail required for the assessment of resolvability provided for in Articles 15 and 16 and Section C of the Annex of the BRRD:</p>	

Template 3

<u>Article 4(8) BRRD report template</u>	
<i>[The notes included in this template are intended to assist the authorities when completing the template and do not form part of the template.]</i>	
Member State:	
Name of competent authority/ resolution authority submitting the report:	<i>[Competent authorities and resolution authorities are expected to complete a report dealing with those institutions to which waivers are granted in relation to the relevant requirements of Sections 2 and 3 of Chapter I of the BRRD. Competent and resolution authorities must report on all institutions to which waivers are granted.]</i>
Reference period:	
Name of category of credit institution or name of credit institution: <i>[When reporting on a category basis, the LEI numbers should be provided for each institution in the category; where these are not available, the names of the institutions should be provided]</i>	<i>[If the report is completed with regard to a specific category of institution, please provide a description of the category, including the key characteristics of institutions in that category (e.g. by reference to SREP classification or other applicable classification system). Please also provide a list of the LEI numbers or, where LEI numbers are not available, the names of the institutions within the category. Where more than one category of institution exists, please complete the report for each category.]</i>
Basis for granting the waiver having regard to the relevant criteria set out in Article 4(8) BRRD	
Institutions affiliated to a central body and wholly or partially exempted from prudential requirements in national law in accordance with Article 10 of Regulation (EU) No 575/2013:	<i>[Within this section please provide a description of the characteristics of the [category of institution/ institution].]</i>
Institutions which are members of an IPS:	

ANNEX II – List of optional indicators

Optional indicators^A

Total assets ¹
Total EAD
Total assets/Member State's GDP
Total EAD/Member State's GDP
Total RWAs
Market capitalisation
Value of assets under custody
Value of OTC derivatives (notional) ²
Interbank assets
Interbank liabilities
Inter-financial sector liabilities
Inter-financial sector assets
Cross-jurisdictional liabilities
Cross-jurisdictional claims
Debt securities outstanding
Value of domestic payment transactions
Total deposits
Total covered deposits
Private sector deposits from depositors in the EU
Value of private sector loans, including committed facilities and syndicated loans
Number of private sector loans
Number of deposit accounts – business
Number of deposit accounts – retail
Number of retail customers
Number of domestic subsidiaries and branches
Number of foreign subsidiaries and branches (to be broken down into subsidiaries and branches established in other Member States and in third countries)
Membership of financial market infrastructure
Critical functions (e.g. IT services) provided by the institution to other group companies or by group companies to the institution
Critical functions and core business lines in each relevant jurisdiction, including the provision of services to other institutions
Clearing, payment and settlement services provided to market participants or others and number of other providers available to the market
Payment services provided to market participants or others and number of other providers available to the market
Geographical breakdown of the institution's activity (including the number of jurisdictions in which the institution, and subsidiary entities, operates and the size of the operations)

^A If indicator values in accordance with the definitions prescribed in this Annex are not available due to the fact that relevant entities, which fall within the scope do not report in IFRS and to which FINREP requirements do not apply competent and resolution authorities should use appropriate proxies. In this case, relevant authorities should ensure that those proxies are properly explained and correlate to the greatest extent possible with the definitions specified in this template.

¹ 'Total assets' is to be calculated on a worldwide basis in accordance with FINREP (IFRS or GAAP) — F 01.01, row 380 column 010.

² 'Value of OTC derivatives (notional)' is to be calculated on a worldwide basis in accordance with: FINREP (IFRS) → F 10.00, rows 300+310+320, column 030 + F 11.00, rows 510+520+530, column 030 or FINREP (GAAP) → F 10.00, rows 300+310+320, column 050 + F 11.00, rows 510+520+530, column 030.

Optional indicators^A

The institution's market share per business line per jurisdiction (for example, deposit taking, retail mortgages, unsecured loans, credit cards, SME lending, corporate lending, trade finance, payments activities and the provision of other critical services)

The type of regulatory permissions and authorisations (e.g. investment firm or a credit institution; the use of advanced models for the calculation of own funds requirements for credit, market and operational risk)

Private sector loans to domestic recipients

Private sector loans to recipients in a specific region

Mortgage loans to recipients in the EU

Mortgage loans to domestic recipients

Retail loans to recipients in the EU

Retail loans to domestic recipients

SREP score (overall)

SREP scores assigned to capital adequacy, liquidity adequacy, internal governance and institution-wide controls assessments

Regulatory permissions and authorisations, in particular in relation to the use of advanced models for the calculation of own funds requirements for credit, market and operational risk

The overall institution's business model, its viability and sustainability of the institution's strategy based on the outcomes of the business model analysis performed as part of SREP according to the EBA Guidelines for common procedures and methodologies for SREP. For this purpose authorities may use the SREP score assigned to business model and strategy

The institution's position in the jurisdictions in which it operates in terms of the critical functions and core business lines offered in each jurisdiction and the market share of the institution (concentration)

Whether shareholders are concentrated or dispersed, in particular taking account of the number of qualified shareholders and the extent to which the shareholding structure may impact the availability of certain recovery actions for the institution and the resolution tools for the resolution authority

The structure of an institution in terms of assessing whether the institution is part of a group and, if so, whether the group has a complicated or simple structure having regard to financial and operational inter-dependencies

The type of the incorporation of the institution into a private limited company, a limited liability company or any other type of company defined within national law

The size of the guarantee fund relative to the institution's total funds (IPS and other mutual solidarity systems only)

The type of the mutual solidarity system and its risk management policies and procedures

The degree of interconnectedness to other IPS participants

5. Accompanying documents

5.1 Draft Cost- Benefit Analysis / Impact Assessment

Introduction

Article 4(11) of the BRRD requires the EBA to develop draft implementing technical standards (ITS) to specify uniform formats, templates and definitions for the identification and transmission of information by competent authorities and resolution authorities to the EBA for the purposes of Article 4(7) of the BRRD, subject to the principle of proportionality.

Information obtained from the competent authorities and the resolution authorities pursuant to the ITS shall inform the report the EBA is required to prepare for the European Parliament, the Council and the Commission on the way the competent authorities and the resolution authorities have applied Article 4(1), (8), (9) and (10) of the BRRD (see Article 4(7) of the BRRD):

- Article 4(1) of the BRRD requires Member States to ensure that competent authorities and resolution authorities shall decide the level of detail regarding these requirements for institutions having regard to the criteria specified in that paragraph and as further specified in the EBA's Guidelines under Article 4(5) of the BRRD.¹⁰
- Article 4(8) of the BRRD requires Member States to ensure that competent authorities and resolution authorities can grant waivers from specified requirements regarding recovery and resolution planning to institutions affiliated to a central body and wholly or partially exempted from prudential requirements in national law in accordance with Article 10 of Regulation (EU) No 575/2013 and institutions which are members of an institutional protection scheme (IPS).
- Article 4(10) of the BRRD specifies that institutions subject to direct supervision by the ECB pursuant to Article 6(4) of Regulation (EU) No 1024/2013 or constituting a significant share in the financial system of a Member State shall draw up their own recovery plans in accordance with Section 2 (recovery planning) of Chapter 1 (recovery and resolution planning) and shall be the subject of individual resolution plans in accordance with Section 3 (resolution planning) of Chapter 1 of Title II of the BRRD. An institution shall be considered as constituting a significant share of a Member State's financial system if the total value of its assets exceeds €30,000,000,000 or the ratio of its total assets over GDP of the Member State of establishment exceeds 20% unless the total value of its assets is below €5,000,000,000.

¹⁰ The BRRD requires the EBA to issue guidelines under Article 4(5) of the BRRD about the criteria in Article 4(1), and only after some experience is acquired with the application of the Guidelines, prepare draft regulatory technical standards (RTS) to specify the above mentioned criteria (Article 4(6) of the BRRD). The Guidelines are available here: [\[to insert\]](#).

The EBA must identify any divergences regarding the implementation at national level of Article 4(1), (8), (9) and (10) of the BRRD in its report.

This section of the Consultation Paper presents the draft Impact Assessment (IA) with cost-benefit analysis of the provisions included in the ITS described in this Paper. Given the nature of the ITS the IA is mostly high-level and qualitative in nature.

Problem definition

It is reasonable to expect potential variations in the reporting by competent authorities and resolution authorities of their approaches as regards the application of Article 4(1), (8), (9) and (10) of the BRRD. For example, where a competent authority or a resolution authority determines pursuant to Article 4(1) of the BRRD that an institution may be subject to simplified obligations in relation to recovery planning or resolution planning, it is for the authority concerned to determine the nature of the simplified obligations to be applied (for instance, simplified obligations are not specified on the face of the BRRD). In view of the discretion available to the authorities, in the absence of a common reporting framework it is reasonable to expect variations between the authorities in the way the simplified obligations are reported to the EBA.

A lack of a harmonised approach to reporting could result in differences between the competent authorities and the resolution authorities as to the level of detail and range of information submitted to the EBA for the purposes of its report under Article 4(7) of the BRRD. It is reasonable to expect that such variations could lead to problems for the EBA in assessing the approaches of the competent authorities and the resolution authorities regarding the implementation at national level of Article 4(1), (8), (9) and (10) of the BRRD for the purposes of the report under Article 4(7) of the BRRD.

The 'assessment of the technical options' sub-section of this IA presents a qualitative assessment of the alternative options and identifies a set of options that can effectively address these problems to varying degrees.

Objectives

The objective of the ITS is to promote convergence of reporting practices by competent authorities and resolution authorities as regards their approach to the implementation at national level of Article 4(1), (8), (9) and (10) of the BRRD, in particular, pursuant to Article 4(1) of the BRRD and the EBA's Guidelines under Article 4(5) of the BRRD, the cases in which simplified obligations are applied for the purposes of recovery and resolution planning and the nature of the simplified obligations applied.

A central element to promoting convergence of practice is to specify a common set of templates and definitions for the identification and transmission of information by competent authorities and resolution authorities to the EBA for the purposes of Article 4(7) of the BRRD. A common framework is expected to achieve consistent and systematic reporting which will enable the EBA

to conduct a detailed comparison of the approaches of the competent authorities and the resolution authorities when exercising their discretions pursuant to Article 4(1), (8), (9) and (10) of the BRRD. This will enable the EBA to identify accurately any divergences of the approach of the authorities in its report of the European Parliament, the Council and the Commission pursuant to Article 4(7) of the BRRD.

Baseline scenario

Most Member States are currently preparing reporting procedures for the purposes of the recovery and resolution framework. Although some convergence is expected under the framework of the BRRD, variations may arise between Member States as regards the implementation at national level of Article 4(1), (8), (9) and (10) of the BRRD. It is important that such variations can be identified. However, in the absence of common formats, templates and definitions for the purposes of reporting how these provisions have been implemented, it is likely to be very difficult for the EBA to identify these variations and to prepare an accurate report containing a detailed comparison of the approaches of the Member State authorities pursuant to Article 4(7) of the BRRD.

Assessment of the technical options

This sub-section of the IA will discuss the advantages and the disadvantages of a set of technical options to address possible variations of approaches to reporting to the EBA.

The assessment considers the following options:

- (a) A high-level template requiring competent authorities and resolution authorities to report in summary form their approaches to the application of Article 4(1), (8), (9) and (10) of the BRRD without reference to individual institutions (Option A);
- (b) A detailed set of reporting templates requiring competent authorities and resolution authorities to report only on an institution-specific basis their approaches to the application of Article 4(1), (8), (9) and (10) of the BRRD (i.e. such that a template must be completed for each institution, for instance describing the basis on which an institution has been determined to be eligible for simplified obligations pursuant to Article 4(1) of the BRRD and the EBA's Guidelines under Article 4(5) of the BRRD) (Option B);
- (c) A set of detailed reporting templates enabling competent authorities and resolution authorities to report on a 'category' or institution-specific basis their approaches to the application of Article 4(1), (8), (9) and (10) of the BRRD (Option C).

Under Option A, a generic framework could be developed requiring competent authorities and resolution authorities to provide a general narrative description of the way they have implemented Article 4(1), (8), (9) and (10) of the BRRD without reference to any specific criteria or components. Under this option, the competent authorities and resolution authorities would have

the complete freedom to decide the information to be provided, including as regards the terminology used to describe their approaches.

The costs and benefits of Option A are expected to be negligible. Although this option would imply the lowest potential costs for the competent authorities and resolution authorities when preparing their reports, this alone would not be expected to promote further convergence in reporting practices since it would not structure reporting to any significant extent. Accordingly it would leave competent authorities and resolution authorities with wide discretion therefore would not address the identified problems.

Under Option B, detailed templates could be developed requiring competent authorities and resolution authorities to provide information in relation to the implementation of Article 4(1), 4(8) and (9) and 4(10) of the BRRD. For instance, the competent authorities and the resolution authorities could be required to report on the way they have assessed individual institutions against the criteria referred to in Article 4(1) of the BRRD and specific indicators for the purposes of establishing whether the institution should be subject to simplified obligations. The reports could be required to be completed on an institution-specific basis only. Such an approach would ensure that the EBA has available detailed information to compare the approaches of the competent authorities and the resolution authorities to the implementation of Article 4(1) of the BRRD by requiring granular information to be submitted by reference to individual criteria and indicators thereby facilitating the production of the report under Article 4(7) of the BRRD.

However, Option B would not permit reporting by competent authorities and resolution authorities on a 'category' basis i.e. where a number of institutions in a jurisdiction share similar characteristics (for example in terms of size, business activities and interconnectedness) and therefore would be time-intensive and entail relatively high costs for the authorities in having to complete the templates for every institution in the jurisdiction which is determined to be eligible for simplified obligations or waivers pursuant to, respectively, Article 4(1) and 4(8) and (9) of the BRRD. Furthermore very prescriptive templates and definitions would be insufficiently flexible to take account of any particular features of a jurisdiction's banking sector/individual institutions and would be therefore too rigid.

Option C aims to find a balance between a fully flexible and harmonised approach. It proposes a set of detailed templates dealing separately with Article 4(1), 4(8) and (9) and 4(10).

These templates use common definitions and a require a common set of information to be provided in order to enable the EBA to conduct a comprehensive assessment of the approach of the competent authorities and resolution authorities in each Member State. However, they enable authorities to provide both quantitative and narrative descriptions to ensure that any specificities of the banking sector or individual institution concerned can be reported.

Furthermore the templates for Article 4(1) and 4(8) and 4(9) reporting are sufficiently flexible so as to enable reporting on an 'individual' or 'category' basis (for example, using the categories set out in the EBA's Draft Guidelines for common procedures and methodologies for the supervisory

review and evaluation process under Article 107(3) of Directive 2013/36/EU) depending on the approach in the competent authorities and resolution authorities concerned. So, for instance, if the competent authorities and the resolution authorities consider the majority of institutions on a 'category' basis but also consider some institutions on an institution-specific basis (e.g. to take account of 'outlying' institutions), the draft reporting templates could be completed for individual institutions and for the relevant categories of institution.

Table 1 presents a summary of the potential benefits and costs associated with of the options.

Table 1 Potential benefits and cost associated with the options

	Potential benefits	Potential costs
A high-level reporting template (Option A)	A level of supervisory discretion can be retained.	Competent authorities and resolution authorities have wide discretion. This may result in variations as to the detail and range of information provided.
	Harmonisation is achieved to a certain extent.	A lack of consistency across jurisdictions may develop.
	The costs of reporting are kept to a minimum.	Significant variations are likely to make it difficult for the EBA to conduct an accurate comparison of the approaches of the competent authorities and resolution authorities to the exercise of their discretions under Article 4 of the BRRD.
A very detailed set of reporting templates enabling competent authorities and resolution authorities to report only on an institution-specific basis (Option B)	Full convergence is achieved for supervisory and resolution reporting across jurisdictions.	The templates are too rigid to enable special characteristics of the banking sector or individual institutions to be reported.
	A very high degree of clarity and transparency are provided regarding the nature of the information required to be submitted pursuant to the reporting templates.	The costs of reporting are very high in light of the granularity of the information requested.
	The EBA receives very granular information about the exercise of the discretions under Article 4 of the BRRD.	The ability of the EBA to conduct an accurate comparison of the approaches of the competent authorities and resolution authorities to the exercise of their discretions under Article 4 of the BRRD is impaired in light of the foregoing.
A set of detailed reporting templates enabling competent authorities and resolution authorities to report on a 'category' or institution-specific basis their approaches (Option C)	Balance between effective convergence and flexibility for reporting minimising variations between the approaches of the competent authorities and resolution authorities and enabling any special characteristics of the banking sector or individual institutions to be reported.	The costs of reporting are not low in light of the granularity of the information requested.
	Clarity and transparency are provided regarding the nature of the information required to be submitted pursuant to the reporting templates.	
	The EBA receives granular information about the exercise of the discretions under Article 4 of the BRRD.	

It is reasonable to conclude that Option B is very difficult to implement and that the Option C inherits some of the disadvantages of Option A but to a lesser extent. Given the potential costs

and benefits of the technical options, Option C is the preferred option to address the identified problems.

5.2 Overview of questions for Consultation

Respondents are invited to comment in particular the following questions.

Questions:

- 1. Do you agree with the list of information the competent authorities are required to report to the EBA?**
- 2. Do you agree with the list of information the resolution authorities are required to report to the EBA?**
- 3. Do you agree with the approach set out in the reporting templates in Annex I of the draft ITS?**
- 4. Do you agree with the proposed reporting periods?**
- 5. Do you agree that competent authorities and resolution authorities should be permitted to submit reports on a joint basis, for instance, where the authorities have taken an identical approach to the determination that an institution, or category of institution, is eligible for simplified obligations albeit that the nature of the simplified obligations (e.g. for recovery and resolution planning purposes) are likely to be different?**