



EBA/RTS/2015/04

3 July 2015

EBA FINAL draft Regulatory Technical Standards

on procedures and contents of notifications referred to in Article 81(1), (2) and (3) and the notice of suspension referred to in Article 83 of Directive 2014/59/EU



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1. Executive summary

Directive 2014/59/EU (the Bank Recovery and Resolution Directive or BRRD) mandates the EBA under Article 82(3) to develop draft regulatory technical standards (RTS) in order to specify the procedures and contents relating to the notification referred to in Article 81(1), (2) and (3) and the notice of suspension referred to in Article 83.

The draft RTS address three distinct notifications: (i) the management body of an entity should duly notify the competent authority if they consider the entity to be failing or likely to fail; (ii) the competent authority should in turn inform the resolution authorities of any notification received from an entity as well as of any measures that the competent authority requires the entity to take pursuant to Article 104 of Directive 2013/36/EU; (iii) the relevant authorities identified in Article 81(3) of Directive 2014/59/EU should receive communication from the competent authority or the resolution authority, as the case may be, that in accordance with Article 32(1), letters (a) and (b), an institution or an entity is failing or likely to fail and that there is no reasonable prospect that any alternative private measure or supervisory action would prevent the failure of the institution or the entity within a reasonable timeframe.

Upon receipt of such communication or on its own initiative, the resolution authority should make a decision on whether or not to take resolution action as set out in Article 82(2) of Directive 2014/59/EU.

In addition, the draft RTS set out the procedures and the content of the notice summarising the effects of the resolution action, including the decision to suspend or restrict the exercise of certain rights in accordance with Articles 69, 70 and 71 of Directive 2014/59/EU. The contents of the notice set out the impact of resolution action(s) on different categories of stakeholders and their contractual rights (e.g. temporary suspension of termination rights, contractual payment or delivery obligations, secured creditors of the institution, availability and access to deposits and other client assets or funds held at the institution).

When finalising the draft RTS, the EBA has considered the responses received to the public consultation (see Section 4.2). The EBA will submit the draft RTS to the European Commission by 3 July 2015.

2. Background and rationale

The Banking Recovery and Resolution Directive (2014/59/EU) requires the designation of a resolution authority in each Member State for the purpose of carrying out the specified resolution functions within the directive. The delineation of responsibilities between competent authorities and resolution authorities for prudential supervision and resolution matters requires close cooperation and coordination. In particular, the assessment that a firm is failing or likely to fail is a



‘trigger event’ for the potential transfer of responsibility from the prudential supervisor to the resolution authority for placing an entity into resolution. In the event of such an assessment, the resolution authority shall decide whether or not to take resolution action.

The BRRD provides for three types of notifications relating to a firm assessed as failing or likely to fail. First, the management body of an institution is responsible for establishing whether the entity is failing or likely to fail and for notifying the competent authority. Second, it is the responsibility of the competent authority to notify the relevant resolution authorities of the receipt of a notification from an entity and additionally to notify them of any actions that the competent authority has instructed the entity to take in response to the notification that the entity is failing or likely to fail. Third, a notification occurs when either the competent authority or resolution authority independently performs an assessment that a firm is failing or likely to fail and that, having regard to the timing and other relevant circumstances, there is no reasonable prospect that an alternative measure would prevent the failure of the institution.

In the context of an EU single market, it is vital that there is a uniform approach to achieving coordination between home–host authorities as well as between competent authorities and resolution authorities, particularly at the moment that an institution is assessed as failing or likely to fail. These draft RTS provide a clear and transparent process to be followed in this eventuality. It also ensures that resolution authorities have the necessary information and are in a position to take swift resolution decisions. The draft RTS specify a consistent information requirement for all three types of notification to enable the relevant authorities to respond promptly, irrespective of whether the assessment of failing or likely to fail has been established by the entity, the competent authority or the resolution authority.

Similarly, in the event that a resolution authority takes a resolution action, it is important that the impact and consequences of this action are clearly communicated to stakeholders. The draft RTS provide a harmonised process and consistent information to affected stakeholders on the impact of resolution action. This helps to reduce uncertainty and thereby supports the stabilisation of the failing institution.

3. Draft regulatory technical standards on notifications and notice of suspension

COMMISSION DELEGATED REGULATION (EU) .../..

of **XXX**

[...]

supplementing Directive 2014/59/EU of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms with regard to regulatory technical standards relating to notifications and the notice of suspension referred to in Article 83.

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 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directives 77/91/EEC and 82/891/EC, Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC and 2011/35/EC and Regulation (EU) N° 1093/2010¹, and in particular Article 82(3) thereof,

Whereas:

- (1) With a view to achieving a uniform approach across the Union ensuring effective coordination among the relevant authorities and to enabling the resolution authority to take adequately informed and swift resolution decisions, this Regulation sets out the procedures and content of the notifications laid down in paragraphs 1, 2 and 3 of Article 81 of Directive 2014/59/EU.
- (2) Notifications should be effected by secure electronic communications, reflecting the urgency and importance of the subject matter. To promote coordination between the parties, prior oral communication and subsequent confirmation of receipt are contemplated in the process.

¹ OJ L 173, 12.6.2014, p. 190.



- (3) Notifications should provide adequate information to the recipient to promptly perform its tasks, specific content is therefore laid down as regards the notification to be submitted to the competent authority by the management body of an institution or entity when it is failing or likely to fail. Similarly, the communication of such notification by the competent authority to the resolution authority should contain that information enabling the latter to fulfil its tasks. Specific content requirements are envisaged also with regard to the notification of the assessment that an institution or entity is failing or likely to fail, when such assessment is initiated by the competent authority or the resolution authority respectively. In such case, the notification should also specify the relevant conditions set out in points (a) and (b) of Article 32(1), of Directive 2014/59/EU.
- (4) With a view to providing a EU harmonised approach across the Union to adequately inform stakeholders of resolution actions, this Regulation sets out the procedures and the content of the notice summarising the effects of the resolution action, including the decision to suspend or restrict the exercise of certain rights in accordance with Article 69, 70 and 71 of Directive 2014/59/EU.
- (5) This Regulation lays down the content of such notice, having regard to some critical information to be conveyed to retail and non retail customers and creditors; in respect of the elements that are not specified in this Regulation the notice should be consistent with the broader communication strategy developed as part of the resolution plan and addressed in the Commission Delegated Regulation XX/2015 (EBA RTS 14/2015 on the Content of Resolution Plans and Assessment of Resolvability).
- (6) This Regulation is based on the draft regulatory technical standards submitted by the European Banking Authority to the Commission.
- (7) The European Banking Authority has conducted open public consultations on the draft regulatory 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 of the European Parliament and of the Council²

HAS ADOPTED THIS REGULATION:

Article 1

General requirements for notifications

- 1 Notifications submitted under this Regulation shall be in writing and transmitted by adequate and safe electronic means.

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 (OJ L 331, 15.12.2010, p. 12).



- 2 The relevant authorities referred to in paragraphs 1, 2 and 3 of Article 81 of Directive 2014/59/EU and in Article 83(2) shall specify the contact details for submitting a notification and make these publicly available.
- 3 Before sending a notification, the sender may make contacts orally with the relevant authorities referred to in paragraphs 1, 2 and 3 of Article 81 of Directive 2014/59/EU to inform them that a notification is being submitted.
- 4 For the purpose of notifications referred to in points (a), (b), (c), (d), (h) and (j) of Article 81(3) of Directive 2014/59/EU and in points (a), (b), (f) and (h) of Article 83(2) thereof, competent authorities and resolution authorities shall use the language in common use for cooperation with the consolidating supervisor and the group level resolution authority.
- 5 The relevant authorities referred to in paragraphs 1, 2 and 3 of Article 81 of Directive 2014/59/EU and in Article 83(2) thereof shall acknowledge receipt of the notification to the sender specifying the date and time of receipt as recorded by the recipient and the contact details of the staff handling the notification.

Article 2

Notification by the management body to a competent authority

- 1 The notifications submitted by the management body of an institution or entity referred to in point (b), (c) or (d) of Article 1(1) ('entity') of Directive 2014/59/EU to a competent authority, shall include:
 - a. the name of the institution or entity sending the notification;
 - b. the address of the registered office of that institution or entity;
 - c. the legal entity identifier of that institution or entity, where available;
 - d. The name and address of the registered office of the immediate and ultimate parent undertaking of that institution or entity, where relevant;
 - e. the relevant information and analyses that the management body took into account when performing the assessment for determining that the requirements under Article 32(4) of Directive 2014/59/EU have been met;
 - f. a copy of the management body's written resolution confirming its assessment that the institution or the entity is failing or likely to fail;
 - g. any additional information that the management body considers relevant to its assessment.
- 2 The notification pursuant to Article 81(1) of Directive 2014/59/EU shall be communicated immediately to the competent authority following the management body determination that an institution or entity is failing or likely to fail.

Article 3

Communication of the competent authority to the resolution authority of the received notification

- 1 Upon receipt of the notification referred to in Article 2, the competent authority shall immediately send the following information without delay to the resolution authority:
 - a. a copy of the notification received including all the information referred to in Article 2(1);
 - b. the details of crisis prevention measures or actions referred to in Article 104 of Directive 2013/36/EU that the competent authority has taken or requires the institution or entity to take, where relevant;
 - c. any additional supporting documents the competent authority deems necessary for the resolution authority to be able to take an informed decision..

Article 4

Notification of assessment that an institution meets the conditions for resolution set out in points (a) and (b) of Article 32(1) of Directive 2014/59/EU

- 1 The notification of a competent authority or resolution authority for the purposes of Article 81(3) of Directive 2014/59/EU shall include:
 - (a) the name of the institution or entity to which the notification relates;
 - (b) the information set forth in letters (b), (c) and (d) of Article 2(1);
 - (c) a summary of the assessment required in points (a) and (b) of Article 32(1) of Directive 2014/59/EU.
- 2 The notification shall be made without delay following a determination that the conditions referred to in points (a) and (b) of Article 32(1) of Directive 2014/59/EU have been met.
- 3 The competent authority shall, without delay, provide the resolution authority with any additional information that the resolution authority may request in order to complete its assessment.

Article 5

Notice



- 1 The notice referred to in Article 83(4) of Directive 2014/59/EU to be published by the resolution authority, shall include:
 - (a) the name of the institution or of the entity under resolution;
 - (b) the address of the registered office of that institution or entity;
 - (c) the legal entity identifier of that institution or entity, where available;
 - (d) the name and address of the registered office of the immediate and ultimate parent undertaking of that institution or entity, where relevant;
 - (e) a list of the names of other group entities and related branches in respect of which resolution actions exercise their effects, including, to the extent possible, information on branches located in third countries;
 - (f) a summary of the relevant resolution actions that are taken, the dates from which those resolution actions take effect and in particular their effects on retail customers and which includes the following:
 - (i) information on the access to deposits according to Directive 2014/49/EU on deposit guarantee schemes held at the institution affected by the resolution action;
 - (ii) information on the access to other clients' assets or funds within the meaning of letter (e) of Article 31(2) of Directive 2014/59/EU, held at the institution affected by the resolution action;
 - (iii) on the contractual payment or delivery obligations subject to suspension under Article 69 of Directive 2014/59/EU, including the commencement and expiration of the suspension period, where applicable;
 - (iv) on the secured creditors of the institution or entity under resolution subject to restrictions on the enforcement of security interest including the commencement and expiration of that restriction period in accordance with Article 70 of Directive 2014/59/EU, where applicable
 - (v) on the contractual parties affected by the temporary suspension of termination rights including the commencement and expiration of the restriction period under Article 71 of Directive 2014/59/EU, where applicable;
 - (g) the confirmation of the ordinary course of contractual commitments, including repayment schedules, not subject to suspensions under Articles 69, 70 and 71 of Directive 2014/59/EU;
 - (h) the point of contact within the institution where customers and creditors can seek further information and updates on the institution or entity and its operations.



- 2 The notice shall be published as soon as reasonably practical after taking a resolution action.

Article 6

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

[For the Commission
On behalf of the President

[Position]

4. Accompanying documents

4.1 Draft cost–benefit analysis/impact assessment

4.1.1 Introduction

Article 82(3) of the BRRD mandates the EBA to develop draft RTS that specify the procedures and contents relating to the notifications referred to in Article 81(1), (2) and (3) and the notice of suspension referred to in Article 83.

Article 10(1) of the EBA Regulation (Regulation (EU) No 1093/2010 of the European Parliament and of the Council) provides that when any draft regulatory technical standards developed by the EBA are submitted to the EU Commission for adoption they shall be accompanied by an analysis of ‘the potential related costs and benefits’. This analysis should provide an overview of the findings regarding the problem identification, the solutions proposed and the potential impact of these options.

A cost–benefit analysis of the provisions included in the RTS is part of the impact assessment (IA) described below. Given the nature of the study, and subject to the proportionality principle when assessing the problems addressed by the regulation, the IA is mostly high-level and qualitative in nature.

4.1.2 Problem definition

These RTS seek to address two core policy issues:

- (1) the lack of a defined notification process and contents of notifications across the EU when an institution is deemed to be failing or likely to fail; and
- (2) the process and contents of information, to be made publicly available, that informs all stakeholders of the consequences of resolution action(s) taken by a resolution authority.

The lack of a common standard in terms of the process and content of a notification, arising from an assessment of whether an entity is failing or likely to fail, increases the potential risks and costs associated with a failing institution. These, *inter alia*, include: excessive forbearance; poor coordination between supervisory and resolution authorities within the same country or between supervisory and resolution authorities amongst different countries; and loss of market confidence on the part of regulatory authorities to effectively coordinate and manage actions taken at the failing institution. The consequences of these failures include increased contagion risks, ring-fencing that results in a disorderly resolution or other unilateral legal actions that increase the overall costs of resolution.



Similarly, the lack of a common standard in terms of the process and content of a notice outlining the implications of a resolution action increases the challenge for resolution authorities in stabilising the position of the failing entity and also increases the likelihood of negative spill-over effects such as contagion risk impacting financial stability.

4.1.3 Objectives

The IA has been carried out with specific consideration of the objectives of the resolution directive, including the following:

- to avoid significant adverse effects on financial stability, in particular by preventing contagion or mitigating contagion risks, by maintaining market discipline;
- to protect public/taxpayer funds by minimising the reliance on extraordinary public financial support;
- to protect depositors covered by Directive 2014/49/EU and investors covered by Directive 97/9/EC;
- to protect client funds and client assets.

The provision of consistent, accurate and timely information, following an assessment that an entity is failing or likely to fail, increases the chances of relevant authorities taking prompt actions. In turn, this helps to maintain the confidence of the marketplace and the ability of relevant authorities to act in a coordinated manner and thereby helps to minimise the risks and costs associated with a potential contagion. By acting promptly, authorities enhance the protection of depositors and minimise the need for public funds to support a failing institution.

In circumstances in which a resolution action is taken (rather than liquidation), it is vital that all stakeholders have access to basic information on the consequences of resolution action. This will help to ensure that stakeholders have access to accurate information that informs their current and future actions. For example, informing stakeholders of the terms and conditions of access to their funds increases the certainty/trust of stakeholders regarding the current position of the failing entity. This will help resolution authorities to take steps to stabilise the failing institution and avoid further impairment to financial stability.

4.1.4 Policy options: analysis and comparisons/preferred options

Regarding the content of notifications two different options were considered:

Option 1: A detailed notification containing all information regarding the circumstances of an institution assessed as failing or likely to fail.



Option 2: A summary notification containing the necessary information regarding an institution assessed as failing or likely to fail.

The provision of comprehensive information on the circumstances of a credit institution or investment firm that is failing or likely to fail would be helpful to authorities. However, from a practical perspective, this would involve additional delays and uncertainties where the agreed causes of failure may take some time to be established. From a resolution standpoint, and consistent with the BRRD requirements, it is important that, having regard to timing and other relevant circumstances, there is no reasonable prospect that would prevent the failure of an institution assessed as failing or being likely to fail. The underlying causes of the failure, while important, do not need to be incorporated into a notification to a competent or resolution authority to take necessary actions. Furthermore, the speed of response by the relevant authorities is paramount to stabilise an institution and help to minimise the loss of financial stability.

In respect of the notice of suspension, two policy options were considered:

Option 1: A detailed notice containing all relevant information to stakeholders on the consequences of the resolution action.

Option 2: A summary notice containing the necessary information to stakeholders on the consequences of the resolution action.

Following a resolution action, stakeholders are interested in identifying the impact of a resolution action on the availability of funds and terms of access to their funds. Given the scale of potential affected stakeholders by resolution action it is not feasible on the part of resolution authorities to provide information at an individual level. However, as part of the resolution authority's efforts to stabilise a failing entity, it is important that practical information is available in terms of the impact of the resolution action on the client funds and deposits. Furthermore, there is a need for the information to be accurate and to be made available in a timely manner to stakeholders and to maintain market confidence. On feasibility grounds, Option 2 is considered to be the only workable approach by assessing the impact of the resolution action on different categories of stakeholders and their contractual rights such as temporary suspension of termination rights, the contractual payment or delivery obligations, secured creditors of the institution, information on the access to and availability of eligible deposits in accordance with Directive 2014/49/EU, other client assets or funds held at the institution.

4.1.5 Cost–benefit analysis

In the opinion of the surveyed national competent and resolution authorities, the policy options mentioned above are, on the whole, perceived to generate incremental benefits rather than incremental costs.



(1) Benefits

The main benefits that arise concern the provision of a harmonised set of information following the assessment that an entity is failing or likely to fail. The certainty and clarity of this information requirement is beneficial in terms of speeding up the process for entities, competent authorities and resolution authorities in communicating the determination that an entity is failing or likely to fail. It also helps to minimise the potential costs associated with iterative information demands and the associated risk and costs of information leakage that could undermine efforts to stabilise an institution. It also helps to mitigate broader risk of contagion and damage to financial stability.

Similarly, in the context of notice of suspension, the provision of harmonised information on the impact of resolution action is expected to positively contribute to reducing the numbers of individual stakeholders seeking similar information from the resolution authority and the failing institution. This is important in the context of strain on resources and IT systems and knock-on implications in trying to stabilise the position of the failing entity.

(2) Costs

The costs of providing the information for notifications and notice of suspension from the perspective of entities assessed as failing or likely to fail and relevant competent and resolution is considered to be negligible. This is due to the one-off nature of this information request that will directly affect a very small proportion of the more than 6000 credit institutions and 3000 investment firms operating in the EU. Furthermore, the information will be known and would most likely have to be provided in any case, as a result of an entity failing or being likely to fail. The proposed approach delivers certainty in terms of specifying the exact information to be provided in the circumstance of an entity failing or being likely to fail and the resulting impact of resolution action.

(3) Net impact

In overcoming the following two important policy issues, the RTS help to mitigate the potential significantly increased costs that may arise during a resolution in circumstances where currently no harmonised requirements exist:

- (i) the need for an adequate notification process and content following an assessment that a firm is failing or likely to fail;
- (ii) a harmonised notice summarising the impact of resolution actions on stakeholders.'

The net impact of the draft RTS is assessed as being moderately beneficial from an economic perspective.



4.2 Feedback on the public consultation and on the opinion of the Banking Stakeholder Group (BSG)

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

The consultation period lasted for three months and ended on 20 March 2015. Three responses were received, with the two non-confidential responses published on the EBA website. The Banking Stakeholder Group had no response to the consultation.

This paper presents a summary of the key points and other comments arising from the consultation, the analysis and discussion triggered by these comments and the actions taken to address them if deemed necessary.

Changes to the draft RTS have been incorporated as a result of the responses received during the public consultation.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
General comments			
Replace 'Immediately' with 'as soon as practical'.	<p>It would be preferable if the word 'immediately' in Article 1 was replaced with the phrase 'as soon as practical'.</p> <p>Immediately before sending a notification, the sender may make contact orally with the relevant authorities to anticipate that a notification is being submitted.</p>	The oral communication is optional under Article 1. As the BRRD (Articles 88, 91 and 92) envisages consultations with the Resolution College members for emergency situations including 'failing or likely to fail' the word 'immediately' is not strictly required.	Remove the word 'immediately'.
Replace 'Immediately' with 'as soon as practical'.	<p>It would be preferable if the word 'immediately' in Article 2 was replaced with the phrase 'as soon as practicable'.</p> <p>The notification pursuant to Article 81(1) of Directive 2014/59/EU shall be communicated immediately to the competent authority following the management body determination that institution or entity is failing or likely to fail.</p>	A key policy element of the BRRD is to ensure that the authorities are notified immediately by an institution that it is failing or likely to fail (rather than as soon as practicable).	No change proposed.



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Article 1(2)	Requirement of relevant authorities, including FMIs, to make information publicly available. The meaning of this provision is ambiguous and, to the extent possible, should be clarified.	The sentence has been revised to clarify the contact details to which the notification should be sent within the respective institutions.	See revised wording.
Article 1(3)	Requirement by notification sender to make oral contact with relevant authorities before sending notification should be mandatory ('must') as opposed to discretionary ('may').	These RTS address notifications that constitute a 'turnkey' to enable the relevant authorities to take appropriate action(s) under the BRRD. The written form of a notification is the principal requirement. While the RTS do provide for the possibility of oral communication, the legal requirement for notification shall be in written form. The proposal for a mandatory 'double' notification, orally and in writing, may not be appropriate in all circumstances.	No changes have been applied with regard to these points.
Proposed extension of recital on notice of suspension as part of a broader communication strategy.	We support the notice provision as proposed but suggest that perhaps it could be clarified that in practice the notice should form part of a wider public relations strategy that should be prepared as appropriate for the institution. This would contain a summary of the reasons for the resolution, what has been done and how the resolution has an impact on all stakeholders in the institution.	The recital has been expanded to include a reference to the communications plan to be developed as part of the RTS on Content of Resolution Plans and Assessment of Resolvability.	Additional wording proposed in Recital 4.
Development of a handbook on resolution including public relations.	It might be beneficial for the Single Resolution Board (SRB) to publish a resolution handbook to provide guidance to authorities (particularly in view of a lack of resolution history in some countries pre-BRRD).	Although the development of a handbook is a potentially useful suggestion, it is outside the mandate of the RTS.	No change proposed.



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Distribution or publication of the notice.	<p>The notification letter should be distributed to all shareholders, customers, borrowers and vendors of the bank, tailored as appropriate and containing basic information and a contact person and telephone number. Communications to borrowers should emphasise their continuing responsibilities to the bank.</p> <p>Public awareness and education are important in advance of resolutions. Before any problem bank action is taken, communications departments from supervisory, resolution and DGSs should coordinate their communications strategy. Without a communications plan, authorities will spend much of the time on the defensive reacting to criticism to the way the bank failure (or banking) crisis is being handled.</p>	<p>Article 83(4) specifies that the notice shall be published rather than distributed. Moreover, it would not be possible in the short timeframe to undertake a distribution of the notice to the list of parties referred to.</p> <p>Article 5(1)(e) of the RTS addresses the requirement for all contractual commitments (including borrowers) while Article 5 (1)(f) addresses the point of contact.</p> <p>The public awareness is addressed through publishing the notice addressed in the RTS. While a broader communications plan is outside the scope of the RTS, reference is made that the notice should be consistent with the broader communication strategy developed as part of the EBA RTS 14/2014 on Content of Resolution Plans and Assessment of Resolvability.</p>	<p>The recital has been amended to include a reference that the notice should be consistent with the communications plan developed as part of the EBA RTS 14/2014 on Content of Resolution Plans and Assessment of Resolvability.</p>
Notification in advance.	<p>The Draft RTS should incorporate express notification requirements for the benefit of FMIs. The respondent was of the view that such notice should be provided confidentially to FMIs in advance.</p>	<p>Article 83(1) already stipulates the notification requirement on the resolution authority to notify FMIs (Article 83(2)(k)) 'as soon as reasonably practical after taking resolution action' and shall include a copy of any order or instrument by which the relevant powers are exercised and indicate the date from which resolution action or actions are effective (Article 83(3)). It is not within the mandate to amend the Level 1 text by requiring a notification in advance.</p>	<p>No changes have been applied with regard to these points.</p>
Inclusion of legal identifier and parent entity, where relevant.	<p>At the very least, however, the content of such a notification (Article 5) should be equivalent to that reflected in Article 2(1)(a) to (d) of the Draft RTS</p>	<p>Article 5 already incorporates information referred to in Article 2(1)(a) and (b) (name and address of registered office of the institution under resolution). It is possible to extend it to include points (c) and (d) (legal entity identifier and the name and address of the immediate parent undertaking).</p>	<p>Article 2(1)(c) and (d) are repeated in Article 5.</p>



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Article 5(1)(c)	<p>Notice requirement to reflect summary of the names of group entities and branches in respect of which resolution actions exercise their effect. Clarification would be useful as to whether the ‘branches’ contemplated by this section include third-country branches. To the extent practicable, it is suggested that third-country branch information be included in such notices in the light of the potential extraterritorial impact of resolution actions and the associated complexities regarding cross-border recognition.</p>	<p>Article 5(1)(c) requires the resolution authority to clearly specify the names of other group entities including branches in respect of which resolution actions exercise their effects. The issue of mutual recognition of resolution action in third countries is an evolving policy issue and not possible to address in all circumstances. In this context, an unambiguous statement regarding entities and branches where resolution action applies provides clarity. The alternative proposal may in fact deliver the opposite to what is intended by clouding the position in those jurisdictions (where the authorities in third countries retain local powers).</p>	<p>No changes have been applied with regard to these points.</p>
Article 5(1)(d)	<p>The type of resolution strategy undertaken or resolution tools employed (e.g. bridge bank transfer, bail-in, etc.) by the resolution authority may, to a large extent, determine the manner in which FMIs will respond e.g. the steps taken by an FMI when there is a change of control of a participant may differ from those taken when there is a complete transfer of a participant’s assets and liabilities to a new bridge institution). Therefore, details of the nature of the resolution action, beyond a summary of the effects of the resolution action, are vital to maximising the likelihood of continued participation in FMIs, and should be included in such notice.</p>	<p>To aid understanding of the ‘effects of resolution’, it is worthwhile including in the notice of suspension the resolution powers undertaken.</p>	<p>The resolution authority shall include the resolution powers it is taking in explaining the effect of resolution.</p>