



# Draft RTS under Art. 45f(6) BRRD: Indirect subscription of MREL instruments within groups (daisy chains)

Public Hearing

29 September 2020, 14:00

# Overview



## Public hearing structure

### **EBA staff introduction:**

- Draft RTS process / public consultation stage
- Background: Article 45f(6) BRRD
- Overview of the draft RTS
- Specific questions for consultation
- Next steps

### **Q&A session**

## Suggestions for an efficient session

### **Should you need assistance or would like to intervene:**

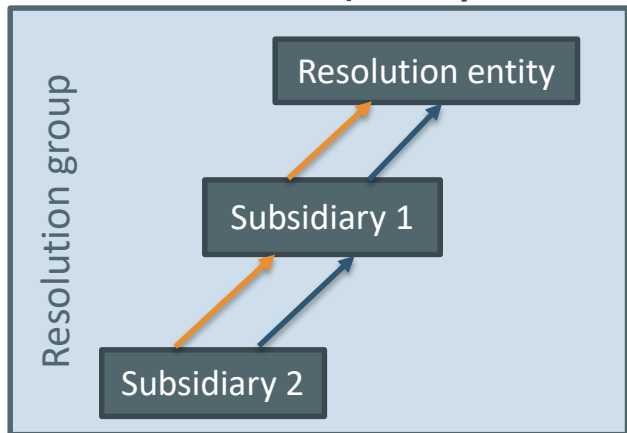
- **write on WebEx chat to any of the hosts or publicly;**
- **reach us by email [resolution@eba.Europa.eu](mailto:resolution@eba.Europa.eu);**
- **raise your hand on WebEx.**

**To avoid background noise, please stay muted unless you take the floor.**

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# Mandate on indirect subscription of internal MREL instruments (daisy chains)



- Issuance of eligible liabilities
- Issuance of capital instruments

- The mandate under Art 45f(6) BRRD2 on indirect subscription of internal MREL aims at allowing a smooth implementation of the resolution strategy (upstream of losses to and downstream of capital from the resolution entity) and avoid double counting of the same eligible instruments for two different needs.
- Indeed an entity may meet its internal MREL requirement by issuing:
  - own funds to any entity in the resolution group (or other entities, as long as the exercise of write down or conversion powers the does not affect the control of the subsidiary by the resolution entity);
  - eligible liabilities directly or indirectly to the resolution entity (or to an existing shareholder).
- These issuances are aimed at allowing the upstream of losses and downstream of capital through the write-down and conversion of instruments allowed by Art 59 BRRD2.
- The resources of the intermediate entity cannot be reserved both for its own needs and for its subsidiaries' needs (double-counting).

# Methods that take into account daisy chains result in increasing issuances of intermediate subsidiaries



- The mandate calls for methods that consist of a **deduction regime or an equivalently robust approach** and ensure an outcome equivalent to that of a full direct subscription by the resolution entity. A **deduction** method results in the ineligibility to internal MREL of a part of the instruments which it issues to the resolution entity. It therefore **increases the need for issuances**.
- The **internal MREL requirement** is defined in BRRD2 Art 45c(7) as the sum of a loss absorption amount (LAA) and a recapitalization amount (RCA), in RWA and in Leverage Ratio Exposure.
- The mandate calls for methods that **avoid that indirectly issued instruments hamper the smooth implementation of the resolution strategy**, i.e. the proper upstream of losses to and downstream of capital from the resolution entity.

# A deduction framework and a fall-back solution



- In the draft Regulatory Technical Standards, a **“full holding-based ” deduction framework** applies in the general case:
  - The **iMREL-eligible instruments deduction** at intermediate subsidiary level amounts to the **full amount** of the intermediate subsidiaries’ **holdings of iMREL eligible instruments** of the lower subsidiaries
  - A **risk weight of 0%** is applied to these holdings.
- This deduction framework was preferred over much-debated « **regulatory-based deduction** » methods...
  - ... where the deducted amount was limited to the iMREL amount
  - The EBA took into account **simplicity, effectiveness of instruments, neutrality on group structure** and **legal soundness**
- A **“fall-back” solution** applies where the deduction approach cannot apply.
  - The Resolution Authority (RA) assesses whether indirectly issued instruments hamper the smooth implementation of the resolution strategy.
  - The RA may apply the measures of Art 45k BRRD2 on the breach of MREL, including the removal of a substantive impediment to resolvability.

# Specific questions for the public consultation (1/2)



1. Do you have any views on the various **deduction options** (considered under paragraph 14 in the CP)?
2. What **cases of daisy chains** may exist in the institutions you represent (with BRRD2 MREL conditions)?
3. In the institutions you represent, how would you deal with daisy chain situations? **Direct issuance of eligible liabilities** from subsidiaries to the resolution entity, or **indirect** through the intermediate subsidiaries?
4. What could be the **financial impact(s)** of the increase of internal issuances due to the deduction?
5. In the institutions you represent, how many cases are there where an **intermediate subsidiary is not regulated**, or located in a **non-EU jurisdiction**, or where the CA has only set **sub-consolidated own funds requirements** to an intermediate subsidiary?
6. Are there any **circumstances** (e.g. the complexity of the Group) in which you would foresee **significant issues** with the implementation of this RTS?

## Next steps

Public consultation  
ends on 27 October  
2020

Draft RTS to be  
finalised and  
published as Final  
Draft RTS by the EBA

Final Draft RTS to be  
submitted to the  
European  
Commission

1. Questions sent in advance
2. “Live questions”:
  - i. Via WebEx chat (private or public)
  - ii. [resolution@eba.europa.eu](mailto:resolution@eba.europa.eu)
  - iii. Requesting the floor







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