



RTS on detailed records of financial contracts

Resolution Unit

London, 8 May 2015

Outline

1. Mandate
2. RTS' goals
3. Main provisions
4. Specific questions for consultation
5. Next steps

Mandate

- Article 71(1) of the BRRD requires Member States to introduce the power for resolution authorities to suspend temporarily the termination rights on any party to a contract with an institution under resolution.
- Article 71(7) of the BRRD specifies that competent authorities or resolution authorities may require an institution or relevant entity to maintain detailed records of financial contracts.
- Article 71(8) of the BRRD requires the EBA to develop draft regulatory technical standards specifying the following elements for the purposes of the Article 71(7):
 1. A minimum set of the information on financial contracts that should be contained in the detailed records; and
 2. The circumstances in which the requirement *should* be imposed.

RTS' goals

- Ensure effective application of resolution powers and resolution tools enhancing the level of preparedness
- Ensure proportionality via:
 - circumstances when the requirement should be imposed
 - details of financial contracts which have to be maintained in detailed records
- Facilitate cooperation and common understanding among authorities, in particular as regards institutions and entities with cross-border operations

1. Circumstances in which the requirement should be imposed

2. Circumstances in which the requirement should be imposed

- The draft RTS specifies that: *“an institution or relevant entity shall be required to maintain detailed records of financial contracts where, pursuant to the applicable resolution plan or the group resolution plan, it is foreseen that resolution actions would be applied to the institution or entity concerned should the relevant conditions for resolution be satisfied”*.
- This approach ensures that:
 - institutions or entities that are likely to be subject to an application of the resolution powers & resolution tools will prepare in advance to (i) maintain necessary information in detailed records and (ii) provide it to the competent and resolution authorities if needed;
 - institutions or entities that are likely to be placed into an insolvency procedure are not automatically subject to the requirement to maintain detailed records of financial contracts.

2. Minimum set of information on financial contracts

3. Minimum set of information on financial contracts

- RTS covers only financial contracts as defined in Article 2 (100) of the BRRD which is wider than ‘derivatives’ definition under the EMIR
- Article 3 and the Annex to the draft RTS sets a minimum list of information which has to be maintained in detailed records
- The Annex to the draft RTS has been aligned with the Commission’s delegated regulation (EU) No 148/2013 (ESMA RTS on EMIR) on reporting to trade repositories
- Only a limited number of new fields have been created where these are particularly critical for resolution purposes
- The Annex to the draft RTS is not a template
- Institution will have to provide information to competent or resolution authority only if requested

Specific questions for consultation and next steps

Specific Questions

1. Do you agree with the circumstances in which the requirement to maintain detailed records shall be imposed?
2. If the answer is no. What alternative trigger could be used?
3. Do you agree with the list of information set out in the Annex to the draft RTS which it is proposed shall be required to be maintained in the detailed records?
4. If the answer is no. What alternative approach could be used to define the circumstances in which the requirement should be imposed in order to ensure proportionality relative to the aim pursued?
5. Do you agree that in the Annex to the draft RTS the same structure as in Commission's delegated regulation (EU) no 148/2013 should be kept?
6. Considering the question above do you think it would be possible and helpful to define expressly in the RTS which data points should be collected at a "per trade" level, and which should be collected at a "per counterparty" level?

Next steps

- Consultation closes on 6 June 2015
- RTS to be finalised in Q3 2015
- Final draft RTS to be submitted to the Commission (deadline 3 July 2015)

Q&A



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