

# Chapter 1

## Commission Delegated Regulation (EU) 2016/1075

## Article 95 Elements of communication of individual decisions

(1) In the absence of a joint decision, the decision on the minimum requirements for own funds and eligible liabilities at consolidated and parent entity level taken by the group-level resolution authority shall be communicated in writing to the resolution college members by means of a document that contains all of the following items:

- (a) the name of the group-level resolution authority;
- (b) the name of the Union parent undertaking and the names of other entities in that jurisdiction to which the joint decision applies;
- (c) references to the applicable Union and national law relating to the preparation, finalisation and application of the decision and in particular references to any additional criteria provided by the Member State, in which the Union parent undertaking is authorised, on the basis of which the minimum requirement for own funds and eligible liabilities are determined;
- (d) the date of the decision;
- (e) the minimum requirement on own funds and eligible liabilities at consolidated level, and a time limit to reach that level, where applicable, along with appropriate reasoning for setting the minimum requirement on own funds and eligible liabilities at that level, having regard to the assessment criteria referred to in Article 45(6)(a) to (f) of Directive 2014/59/EU;
- (f) the minimum requirement on own funds and eligible liabilities at the level of the Union parent undertaking, unless use of waivers in accordance to Article 45(11) is granted, and a time limit to reach that level, where applicable, along with appropriate reasoning for setting the minimum requirement on own funds and eligible liabilities at that level, having regard to the assessment criteria referred to in Article 45(6)(a) to (f) of Directive 2014/59/EU;
- (g) the names of the resolution college members and observers involved, in accordance with the terms and conditions of observers' participation, in the joint decision process, along with a summary of the views expressed by those authorities and information on issues leading to disagreement;

(h) comments of the group-level resolution authority on the views expressed by the resolution college members and observers, in particular on issues leading to disagreement;

(i) where the decision that relates to the minimum requirement on own funds and eligible liabilities provides that such requirement is partially met at consolidated or individual level for the Union parent undertaking through contractual bail-in instruments, the decision shall also include details demonstrating the satisfaction of the group-level resolution authority that the instruments qualify as a contractual bail-in instruments in accordance to the criteria set in Article 45(14) of Directive 2014/59/EU.

(2) In the absence of a joint decision, the resolution authorities of subsidiaries taking their own decisions on the minimum requirement of own funds and eligible liabilities at individual level shall transmit to the group-level resolution authority a document that contains all of the following items:

(a) the name of the resolution authority of the subsidiary taking the decision;

(b) the name of the group's subsidiaries under its jurisdiction to which the decision relates and applies;

(c) references to the applicable Union and national law relating to the preparation, finalisation and application of the decision and in particular, references to any additional criteria provided by the Member States, in which those group's subsidiaries are authorised, on the basis of which the minimum requirement for own funds and eligible liabilities are determined;

(d) the date of the decision;

(e) the minimum requirement on own funds and eligible liabilities to be applied to the subsidiary at individual level, and a time limit to reach that level, where applicable, along with appropriate reasoning for setting the minimum requirement on own funds and eligible liabilities at that level having regard to the assessment criteria referred to in Article 45(6)(a) to (f) of Directive 2014/59/EU;

(f) the name of the group-level resolution authority along with a summary of the views it expressed and information on issues leading to disagreement;

(g) comments of the resolution authority of the subsidiary on the views expressed by the group-level resolution authority, in particular on issues leading to disagreement;

(h) where the decision that relates to the minimum requirement on own funds and eligible liabilities provides that such requirement is partially met at the subsidiary level through contractual bail-in instruments, the decision shall also include details demonstrating the satisfaction of the respective resolution authority of the subsidiary that the instruments qualify as a contractual bail-in instruments in accordance to the criteria set in Article 45(14) of Directive 2014/59/EU.

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(3) Where the EBA has been consulted, the decisions taken in the absence of a joint decision shall include an explanation as to why the advice of the EBA was not followed.