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Commission Implementing Regulation (EU) 2018/308 of 1 March 2018 laying down implementing technical standards for Directive 2014/59/EU of the European Parliament and of the Council with regard to formats, templates and definitions for the identification and transmission of information by resolution authorities for the purposes of informing the European Banking Authority of the minimum requirement for own funds and eligible liabilities (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2018/308

of 1 March 2018

laying down implementing technical standards for Directive 2014/59/EU of the European Parliament and of the Council with regard to formats, templates and definitions for the identification and transmission of information by resolution authorities for the purposes of informing the European Banking Authority of the minimum requirement for own funds and eligible liabilities

(Text with EEA relevance)

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 of 15 May 2014 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[(1)], and in particular the third subparagraph of Article 45(17) thereof,

Whereas:

(1) Resolution authorities have been given the task of setting, for each institution, the minimum requirement for own funds and eligible liabilities ('MREL') in accordance with the requirements and the procedures laid down in Article 45 of Directive 2014/59/EU as further specified by Commission Delegated Regulation (EU) 2016/1450[(2)].

(2) Resolution authorities are required under Article 45(16) of Directive 2014/59/EU to inform the European Banking Authority (EBA), in coordination with competent authorities, of the requirements they have set. Uniform formats, templates and definitions for the identification and transmission of that information to the EBA should be designed in such a way that they facilitate the monitoring by the EBA of MREL decisions and ensure a meaningful assessment of convergence in approach across the Union.

(3) In respect of groups which are subject to a consolidated MREL, it is necessary to clarify which resolution authority should transmit to the EBA the information on, first, the MREL determined for the parent undertaking concerned, and second, the MREL applied to the subsidiaries, whether on the basis of a joint decision reached between

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the group-level resolution authority and the resolution authority responsible for the subsidiary on an individual basis, or of a decision taken by the resolution authority of the subsidiary in the absence of a joint decision. In order to ensure that the EBA is provided with the necessary information as regards both the parent undertaking and the subsidiaries, the relevant group-level resolution authority should be required to inform the EBA, in coordination with the consolidating supervisor, of both the MREL determined on an individual and the MREL determined on a consolidated basis for the parent undertaking concerned, and the resolution authorities responsible for a group's subsidiaries, in coordination with competent authorities, should be required to inform the EBA of the MREL that has been set for each institution under their jurisdiction.

(4) In order to promote convergence of practices regarding MREL decisions and to strengthen the monitoring role of the EBA, uniform reporting periods and submission dates for the transmission of information by the resolution authorities to the EBA should be established.

(5) This Regulation is based on the draft implementing technical standards submitted by the EBA to the Commission.

(6) 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 of the European Parliament and of the Council[(3)],

HAS ADOPTED THIS REGULATION:

Article 1

Information included in the templates

1 For the purposes of informing the EBA of the minimum requirement for own funds and eligible liabilities ('MREL'), and where relevant the requirement laid down in Article 45(13) of Directive 2014/59/EU, that have been set for each institution under their jurisdiction in accordance with Article 45(16) of that Directive on an individual and consolidated basis, resolution authorities, in coordination with competent authorities, shall transmit to the EBA the information specified in the templates set out in Annexes I and II to this Regulation.

2 In respect of institutions that are part of a group subject to a consolidated MREL, resolution authorities, in coordination with competent authorities, shall also transmit to the EBA the information as specified in the template set out in Annex III.

3 For the purposes of paragraphs 1 and 2, resolution authorities shall, where indicated in the template set out in Annex II, provide qualitative information explaining the reasons for MREL decisions on a best effort basis including, where appropriate, references to individual or group resolution plans, public decisions or policy statements of the resolution authority, or other supporting documents.

4 The terms used in Annex II shall have the meaning attributed to them in the relevant provisions referred to in the relevant column of the table included in that Annex.

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Article 2

Simplified reporting requirement for institutions subject to waivers and institutions for which the recapitalisation amount is zero

1 By way of derogation from Article 1 of this Regulation, in relation to those institutions for which the application of the MREL has been waived under Article 45(11) or (12) of Directive 2014/59/EU, resolution authorities shall transmit to the EBA the information specified in Annex I, columns 10 to 90 of Annex II and, in respect of institutions that are part of a group subject to consolidated MREL, Annex III to this Regulation.

2 By way of derogation from Article 1 of this Regulation, in respect of those institutions for which the recapitalisation amount is zero in accordance with Article 2(2) of Delegated Regulation (EU) 2016/1450, resolution authorities shall transmit to the EBA the information specified in Annex I, columns 10 to 120 of Annex II and, in respect of institutions that are part of a group subject to consolidated MREL, Annex III to this Regulation.

Article 3

Reporting authority in respect of groups

In respect of groups which are subject to a consolidated MREL, the information referred to in Articles 1 and 2 shall be submitted in the following manner:

(a) the relevant group-level resolution authority, in coordination with the consolidating supervisor, shall inform the EBA of both the MREL determined on an individual, and the MREL determined on a consolidated basis for the Union parent undertaking or the parent undertaking referred to in Article 2 of Regulation (EU) No 806/2014 of the European Parliament and of the Council[(4)];

(b) the relevant resolution authorities, in coordination with the competent authority, shall inform the EBA of the MREL to be applied to the group subsidiaries under their jurisdiction on an individual basis.

Article 4

Reporting periods and submission dates

1 Resolution authorities shall transmit the information referred to in Article 1 without undue delay after the decision establishing the MREL is taken or updated.

2 Resolution authorities shall transmit the information referred to in Article 2 for the MREL which has been determined and remains applicable as at 1 April of each year by 30 April of the same year.

Article 5

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*.

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This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 1 March 2018.

For the Commission

The President

Jean-Claude JUNCKER