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Commission Implementing Regulation (EU) 2016/962 of 16 June 2016 laying down implementing technical standards with regard to the uniform formats, templates and definitions for the identification and transmission of information by competent authorities and resolution authorities to the European Banking Authority according to Directive 2014/59/EU of the European Parliament and of the Council (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2016/962

of 16 June 2016

laying down implementing technical standards with regard to the uniform formats, templates and definitions for the identification and transmission of information by competent authorities and resolution authorities to the European Banking Authority according to Directive 2014/59/EU of the European Parliament and of the Council

(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 15 May 2014 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 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 Article 4(11) thereof,

Whereas:

(1) Article 4(1) of Directive 2014/59/EU provides that simplified obligations may be applied to an institution where, having regard to the criteria referred to therein, and Guidelines prepared by the European Banking Authority (EBA) under Article 4(5) of that Directive, the competent authorities and resolution authorities determine that the institution's failure and subsequent winding-up under normal insolvency proceedings would not be likely to have a significant negative effect on financial markets, on other institutions, on funding conditions, or on the wider economy.

(2) Subject to Article 4(9) and (10) of Directive 2014/59/EU, Article 4(8) requires Member States to ensure that competent authorities and resolution authorities may waive the application of the requirements of Sections 2 and 3 of Chapter 1 of Title II of that Directive to institutions affiliated to a central body and wholly or partially exempted from prudential requirements in national law in accordance with Article 10 of Regulation (EU) No 575/2013 of the European Parliament and of the Council[(2)]. Article 4(8) of Directive 2014/59/EU also requires Member States to ensure that competent authorities and resolution authorities waive the application of the requirements of Section 2 of Chapter 1 of Title II of that Directive to institutions which are members

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of an institutional protection scheme (IPS). In particular, Article 4(10) of Directive 2014/59/EU specifies that institutions subject to direct supervision by the European Central Bank pursuant to Article 6(4) of Council Regulation (EU) No 1024/2013[(3)] or those institutions, according to criteria referred to thereof, constitute a significant share in the financial system of a Member State are required to draw up their own recovery plans in accordance with Section 2 of Chapter 1 of Title II of Directive 2014/59/EU and must be the subject of individual resolution plans in accordance with Section 3 of that Chapter.

(3) Article 4(7) of Directive 2014/59/EU requires competent authorities and resolution authorities to inform the EBA of the way they have applied Article 4(1), (8), (9) and (10) of that Directive to institutions in their jurisdiction. This Regulation should provide templates for the submission of information relating to Article 4(1) and 4(8) of Directive 2014/59/EU which can be completed, as appropriate, on an institution-specific or category basis in accordance with the practices adopted by the competent authorities and resolution authorities when assessing institutions sharing similar characteristics having regard to the criteria referred to in Article 4(1) of that Directive.

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

(5) 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[(4)],

HAS ADOPTED THIS REGULATION:

Article 1

General rules

1 In order to inform the European Banking Authority (EBA) about the application of Article 4(1), (8), (9) and (10) of Directive 2014/59/EU to institutions in their jurisdictions, competent authorities and resolution authorities shall transmit to the EBA the information identified in accordance with Articles 2 and 3 of this Regulation.

2 For the purposes of the transmission of information in accordance with paragraph 1, competent authorities and resolution authorities shall complete the relevant templates set out in Annex I and, where appropriate, refer to the optional indicators set out in Annex II.

3 Competent authorities and resolution authorities may choose to complete the templates set out in Annex I on a joint basis in the following manner:

a competent authorities complete the relevant parts of the templates for the purposes of recovery planning;

b resolution authorities complete the relevant parts of the templates for the purposes of resolvability assessments and resolution planning.

4 Where competent authorities and resolution authorities transmit the information identified in accordance with Articles 2 and 3 of this Regulation to the EBA, those authorities

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may make reference to a 'category of institutions', where they determine that two or more institutions share similar characteristics in terms of the criteria referred to in Article 4(1) of Directive 2014/59/EU for the application of simplified obligations.

Article 2

Information to be submitted by competent authorities

1 For each reporting period specified in Article 4 of this Regulation, competent authorities shall submit to the EBA the following information on the application of simplified obligations in relation to the contents and details of recovery plans and the date by which the first recovery plans are to be drawn up and the frequency for updating recovery plans:

a the number of credit institutions and the number of investment firms established in the Member State;

b the number and total assets of credit institutions and the number and total assets of investment firms for which simplified obligations have been applied under Article 4(1) of Directive 2014/59/EU for the purposes of recovery planning as compared to the number and total assets of all credit institutions and, respectively, investment firms established in the Member State concerned;

c the number and total assets of institutions to which a waiver has been granted under Article 4(8) of Directive 2014/59/EU compared to the number and total assets of all institutions established in the Member State concerned;

d for each institution, or category of institution, to which simplified obligations have been applied and remain applicable under Article 4(1) of Directive 2014/59/EU by the end of each reporting period:

(i) the legal entity identifier number or, where this is not available, the name of the institution or institutions falling within the category;

(ii) where the report relates to a 'category of institutions', a description of the basis for establishing that category of institutions according to Article 1(4) of this Regulation;

(iii) quantitative information in relation to the application of the criteria on size, interconnectedness and scope and complexity of activities referred to in Article 4(1) of Directive 2014/59/EU;

(iv) a summary of the optional indicators provided in Annex II to this Regulation, if any, applied in relation to each of the criteria referred to in Article 4(1) of Directive 2014/59/EU;

(v) a description of the simplified obligations as compared to full obligations;

e for each institution, or category of institutions, to which a waiver has been granted under Article 4(8) of Directive 2014/59/EU, a description of the basis on which the waiver has been granted having regard to the criteria set out in points (a) and (b) of Article 4(8) of Directive 2014/59/EU.

2 For the purposes of submitting the information required under paragraph 1, the competent authorities shall complete each of the reporting templates in Annex I to this Regulation. Where a competent authority has applied a weighting to particular criteria among those referred to in Article 4(1) of Directive 2014/59/EU such that they have been particularly determinative in establishing that an institution, or category of institutions, should be subject to simplified obligations, the competent authority shall identify the weighting assigned to these

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criteria in its report. Where the competent authority has not applied a weighting to particular criteria among those referred to in Article 4(1) of Directive 2014/59/EU, that competent authority shall identify in its report the relative importance of the criteria in establishing that an institution, or category of institutions, should be subject to simplified obligations.

Article 3

Information to be submitted by resolution authorities

1 For each reporting period specified in Article 4 of this Regulation, resolution authorities shall submit to the EBA the following information on the application of simplified obligations in relation to the contents and details of resolution plans and the date by which the first resolution plans are to be drawn up and the frequency for updating the plans:

a the number and total assets of credit institutions and the number and total assets of investment firms for which simplified obligations have been applied under Article 4(1) of Directive 2014/59/EU for the purposes of resolvability assessments and resolution planning as compared to the number and total assets of all credit institutions and, respectively, investment firms established in the Member State concerned;

b the number of credit institutions and the number of investment firms to which a waiver has been granted under Article 4(8) of Directive 2014/59/EU;

c for each institution, or category of institution, to which simplified obligations have been applied and remain applicable under Article 4(1) of Directive 2014/59/EU by the end of each reporting period:

(i) the legal entity identifier number or, where this is not available, the name of the institution or institutions falling within the category;

(ii) where the report relates to a 'category of institutions', a description of the basis for establishing that category of institutions according to Article 1(4) of this Regulation;

(iii) quantitative information in relation to the application of the criteria on size, interconnectedness and scope and complexity of activities referred to in Article 4(1) of Directive 2014/59/EU:;

(iv) a summary of the optional indicators provided in Annex II to this Regulation, if any, applied in relation to each of the criteria;

(v) a description of the simplified obligations as compared to full obligations;

d for each institution, or category of institutions, to which a waiver has been granted under Article 4(8) of Directive 2014/59/EU, a description of the basis on which the waiver has been granted having regard to the criteria set out in points (a) and (b) of Article 4(8) of Directive 2014/59/EU.

2 For the purposes of submitting the information referred to in paragraph 1, the resolution authorities shall complete each of the reporting templates set out in Annex I to this Regulation. Where a resolution authority has applied a weighting to particular criteria among those referred to in Article 4(1) of Directive 2014/59/EU such that they have been particularly determinative in establishing that an institution, or category of institutions, should be subject to simplified obligations, the resolution authority shall identify and describe the weighting assigned to those criteria in its report. Where the resolution authority has not applied a weighting to particular criteria among those referred to in Article 4(1) of Directive 2014/59/EU, that resolution authority shall identify in its report the relative importance of the criteria

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in establishing that an institution, or category of institutions, should be subject to simplified obligations.

Article 4

Reporting periods and submission dates

1 With regard to the information referred to in Article 2(1) and Article 3(1), the first reporting period shall commence on 1 January 2015 and shall end on 30 April 2016. The information relating to the first reporting period shall be submitted to the EBA by the 30th day following entry into force of this Regulation.

2 With regard to the information referred to in Article 2(1) and Article 3(1), the second reporting period shall commence on 1 May 2016 and end on 30 April 2017. The information relating to the second reporting period shall be submitted to the EBA by 1 June 2017.

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*.

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

Done at Brussels, 16 June 2016.

For the Commission

The President

Jean-Claude JUNCKER