

20 March 2015

European Banking Authority
Floor 46
One Canada Square
London
E14 5AA

Submitted via the EBA website

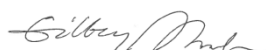
Consultation paper on draft RTS on Procedures and contents of notifications referred to in Articles 81(1), (2) and (3) and the notice of suspension referred to in Article 83 of Directives 2014/59/EU

Dear Sir / Madam

Please find enclosed AFME's response to the EBA consultation paper on draft Regulatory Technical Standards on Procedures and contents of notifications referred to in Articles 81(1), (2) and (3) and the notice of suspension referred to in Article 83 of Directives 2014/59/EU (EBA/CP2014/47).

Please do not hesitate to contact us if you have any questions or wish to discuss these issues further.

Yours faithfully



Gilbey Strub
Managing Director, Recovery and Resolution
AFME

Association for Financial Markets in Europe

London Office: St. Michael's House, 1 George Yard, London EC3V 9DH T: +44 (0)20 7743 9300 F: +44 (0)20 7743 9301

Brussels Office: Rue de la Loi 82, 1040 Brussels, Belgium T: +32 (0)2 788 3971

Company Registration No: 6996678 Registered Office: St. Michael's House, 1 George Yard, London EC3V 9DH

www.afme.eu

Consultation response

Regulatory Technical Standards on Procedures and contents of notifications referred to in Articles 81(1), (2) and (3) and the notice of suspension referred to in Article 83 of Directive 2014/59/EU

20 March 2015

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on the EBA consultation paper on draft Regulatory Technical Standards on Procedures and contents of notifications referred to in Articles 81(1), (2) and (3) and the notice of suspension referred to in Article 83 of Directives 2014/59/EU (EBA/CP2014/47). AFME represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. We advocate stable, competitive, sustainable European financial markets that support economic growth and benefit society.

AFME is the European member of the Global Financial Markets Association (GFMA) a global alliance with the Securities Industry and Financial Markets Association (SIFMA) in the US, and the Asia Securities Industry and Financial Markets Association (ASIFMA) in Asia.

AFME is listed on the EU Register of Interest Representatives, registration number 65110063986-76.

We support the approach taken by the RTS in general, particularly the final paragraph of the background section stating that

it is important that the impact and consequences of [the resolution] action are clearly communicated to stakeholders. The draft RTS provides a harmonised process and consistent information to affected stakeholders on the impact of resolution action. This helps to reduce uncertainty and thereby support the stabilisation of the failing institution.

Therefore, we support the notice provision as proposed but suggest that perhaps it could be clarified that in practice the notice should form part of a wider public relations strategy that should be prepared as appropriate for the institution. This would contain a summary of the reasons for the resolution, what has been done and how the resolution impacts all stakeholders in the institution. In reality, much of the information is unlikely to be in the notices itself but more likely in accompanying press release and FAQs.

This takes us to a broader point that it might be beneficial for the Single Resolution Board (SRB) to publish a resolution handbook to provide guidance to authorities (particularly in view of lack of resolution history in some countries pre-BRRD). We find helpful the Guide on Closing a Failed Bank published by the International Monetary Fund, and have noted below some points related to public relations that might be helpful in a handbook particularly if tailored to the BRRD.¹

¹ David C Parker, *Closing a Failed Bank Resolution Practices and Procedures*, published by International Monetary Fund (2011).

- The deposit guarantee scheme and the resolution authority, and where involved, the SRB, should all coordinate and control information through a single spokesperson.
- The resolution authority should prepare and deliver a media statement immediately after taking control of a bank providing information in a positive light to reassure the public that covered deposits will be safe.
- Public statements should stress that the authorities have acted in the best interest of the depositors and the financial stability of the banking system.
- Press releases should be brief, factually accurate and positive as possible.
- Possible follow up questions should be anticipated and answers prepared.
- Authorities should share as much information as possible with the media to foster accurate reporting and goodwill.

Items for press release

- Where will insured deposits be paid?
- Is there an acquiring bank to act as paying agent?
- Will all branch facilities be open for payment?
- When will deposits be paid (or be made available)?
- What information must an insured depositor provide to obtain payment?
- What happens to my loan?
- Must I continue making payments?

The notification letter should be distributed to all shareholders, customers, borrowers and vendors of the bank tailored as appropriate and containing basic information and a contact person and telephone number. Communications to borrowers should emphasise their continuing responsibilities to the bank.

Public awareness and education are important in advance of resolutions. Before any problem bank action is taken, communications departments from supervisory, resolution and DGSs should coordinate their communications strategy. Without a communications plan, authorities will spend much of the time on the defensive reacting to criticism to the way the bank failure (or banking) crisis is being handled. This will add stress and will exacerbate the crisis environment and undermine the authorities efforts to maintain the stability of the banking system.

For interest, we attach as an annex a sample form notice to the public from the IMF guide and links below to sample press releases issued by the UK Financial Service Compensation Scheme and the US Federal Deposit Insurance Corporation.

<http://www.fscs.org.uk/news/2014/november/lower-iveagh-credit-union-decl-v9hu8yh1x/index.html>

https://www.fdic.gov/bank/individual/failed/harvest.html#press_release

ANNEX. NOTICE TO SHAREHOLDERS, DEPOSITORS, BORROWERS, AND VENDORS OF APPOINTMENT OF CONSERVATOR OR RECEIVER

To: _____
(shareholder, depositor, borrower or vendor name and address)

From: _____
(Regulatory Authority)

Date: _____

Subject: Appointment of Conservator or Receiver of _____
(name of financial institution)

(account number or other reference number)

Pursuant to _____ by order number _____, dated
_____ the _____ has appointed a Conservator or Receiver for
_____ and taken over the
(name of financial institution)

governing-managing operations of _____ as of
(name of financial institution)

_____ at _____.
(date of appointment) (time of appointment)

Until notified otherwise in writing by the Regulatory Authority:

1. All existing obligations remain in full force and effect.
2. Future transactions through the account of _____ are to be
(name of financial institution)

authorized only by _____ in his or her capacity as Conservator or
(name of Conservator or Receiver)
Receiver.

Inquiries concerning assets and liabilities of _____ may be directed to
(name of financial institution)

_____ at _____.
(name of Conservator or Receiver) (address of Conservator or Receiver)

Authorized Regulatory Authority Official

Dated: _____

