

Single Rulebook Q&A

Question ID	2022_6594
Status	Final Q&A
Legal act	Directive 2014/59/EU (BRRD)
Topic	Cross-border resolution
Article	88
Paragraph	1-3
Subparagraph	-
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Not applicable
Article/Paragraph	n/a
Date of submission	30/09/2022
Published as Final Q&A	20/01/2023
Disclose name of institution / entity	No
Type of submitter	Resolution authority
Subject matter	Establishment of a resolution college
Question	Is a resolution college to be established pursuant to Article 88 for a group consisting of a bank which is a resolution entity in a member state, the bank's significant branches in other Member States, the bank's subsidiaries (credit institutions) in the Member State where the bank is domiciled and the bank's subsidiaries (credit institutions) in third countries?
Background on the question	According to Article 88(1) Directive 2014/59/EU (BRRD) "resolution authorities shall establish resolution colleges to carry out the tasks referred to in Articles 12, 13, 16, 18, 45 to 45h, 91 and 92, and, where appropriate, to ensure cooperation and coordination with third-country resolution authorities. [...] In addition, resolution colleges may be used as a forum to discuss any issues relating to cross-border group resolution". According to Article 88(2)(d) BRRD, the members of the resolution college shall be, among others, "the resolution authorities of Member States in which significant branches are located". On top of this, according to Article 88(3) BRRD, "the resolution authorities of third countries where a parent undertaking or an institution established in the Union has a subsidiary institution or a branch that would be considered to be significant were it located in the Union may, at their request, be invited to participate in the resolution college as

	<p>observers”. Based on the above, it seems possible to conclude that a resolution college is to be established for a group consisting of a bank which is a resolution entity in a Member State, the bank’s significant branches in other Member States, the bank’s subsidiaries (credit institutions) in the Member State where the bank is domiciled and the bank’s subsidiaries (credit institutions) in third countries. We also note that this reading would be in line with recital (3) in the BRRD, according to which “the failure of a cross-border institution is likely to affect the stability of financial markets in the different Member States in which it operates. The inability of Member States to seize control of a failing institution and resolve it in a way that effectively prevents broader systemic damage can undermine Member States’ mutual trust and the credibility of the internal market in the field of financial services” and with recital (17), where it is further remarked that “Effective resolution of institutions or group entities operating across the Union requires cooperation among competent authorities and resolution authorities within supervisory and resolution colleges at all the stages covered by this Directive, from the preparation of recovery and resolution plans to the actual resolution of an institution”. In this vein, recital (15) BRRD is also relevant, as it states that “all the national authorities involved in the resolution of institutions should be represented in resolution colleges, where coordination at cross-border or Union level should take place”. For this reason, we believe that for a group with the parent entity in one Member State and subsidiaries in third countries and significant branches in other Member States, a resolution college is to be established.</p>
Final answer	<p>In accordance with Article 88(1) to (3) of Directive 2014/59/EU (BRRD), for a group with the Union parent entity and subsidiaries in one Member State, no subsidiaries in another Member State and at least one significant branch in another Member State, a resolution college is to be established.</p> <p>In particular, Article 88(2)(d) BRRD provides that the resolution authorities of Member States in which significant branches are located shall be members of the resolution college. For such authorities to be members of the resolution college, such a college has to be established where those authorities exist, that is, where a group includes significant branches in one or more Member States other than that of the parent entity.</p> <p>The BRRD stresses, as highlighted by recitals (3), (15), (17) and (96) BRRD, the importance of cooperation and coordination between resolution authorities, competent authorities, and other authorities relevant for financial safeguards from Member States where the parent entity is established and from Member States where significant branches are located.</p> <p>The establishment of the college is independent of the obligations of resolution authorities to conclude joint decisions.</p> <p>In conclusion, Article 88 BRRD, read together with the relevant recitals, provides that a resolution college is to be established where there is a group</p>

	consisting of a Union parent entity and subsidiaries in one Member State, no subsidiaries in another Member State and at least one significant branch in another Member State.
Link	https://www.eba.europa.eu/single-rule-book-qa/qna/view/publicId/2022_6594

European Banking Authority, 16/02/2023

www.eba.europa.eu