



**2016/0362(COD)**

27.9.2017

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## **DRAFT REPORT**

on the proposal for a directive of the European Parliament and of the Council amending Directive 2014/59/EU on loss-absorbing and recapitalisation capacity of credit institutions and investment firms and amending Directive 98/26/EC, Directive 2002/47/EC, Directive 2012/30/EU, Directive 2011/35/EU, Directive 2005/56/EC, Directive 2004/25/EC and Directive 2007/36/EC  
(COM(2016)0852 – C8-0481/2016 – 2016/0362(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Gunnar Hökmark

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a directive of the European Parliament and of the Council amending Directive 2014/59/EU on loss-absorbing and recapitalisation capacity of credit institutions and investment firms and amending Directive 98/26/EC, Directive 2002/47/EC, Directive 2012/30/EU, Directive 2011/35/EU, Directive 2005/56/EC, Directive 2004/25/EC and Directive 2007/36/EC (COM(2016)0852 – C8-0481/2016 – 2016/0362(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0852),
  - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0481/2016),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Economic and Monetary Affairs (A8-0000/2017),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

#### **Proposal for a directive Recital 6 a (new)**

*Text proposed by the Commission*

*Amendment*

***(6a) In order to ensure certainty for markets and allow for a build-up of the necessary buffers, markets need timely clarity about the eligibility criteria required in order for instruments to be recognised as TLAC/MREL liabilities.***

## Amendment 2

### Proposal for a directive

#### Recital 7

##### *Text proposed by the Commission*

(7) Eligibility criteria for bail-inable liabilities for the MREL should be closely aligned with those laid down in Regulation (EU) No 575/2013 for the TLAC minimum requirement, in line with the complementary adjustments and requirements introduced in this Directive. In particular, certain debt instruments with an embedded derivative component, such as certain structured notes, should be eligible to meet the MREL to the extent that they have a fixed principal amount repayable at maturity while only an additional return is linked to a derivative and depends on the performance of a reference asset. In view of their fixed principal amount, those instruments should be highly loss-absorbing and easily bail-inable in resolution.

##### *Amendment*

(7) Eligibility criteria for bail-inable liabilities for the MREL should be closely aligned with those laid down in Regulation (EU) No 575/2013 for the TLAC minimum requirement, in line with the complementary adjustments and requirements introduced in this Directive. In particular, certain debt instruments with an embedded derivative component, such as certain structured notes, should be eligible to meet the MREL to the extent that they have a fixed principal amount repayable at maturity while only an additional return is linked to a derivative and depends on the performance of a reference asset. In view of their fixed principal amount, those instruments should be highly loss-absorbing and easily bail-inable in resolution. ***The alignment of the eligibility criteria for the MREL with those laid down in Regulation (EU) No 575/2013 should ensure a level playing field for Union institutions on a global level. This means that the level of the requirements that has to be met specifically with subordinated debt should be set at the level of the requirements for TLAC, as transposed into Union law.***

## Amendment 3

### Proposal for a directive

#### Recital 8

(8) The scope of liabilities to meet the MREL includes, in principle, all liabilities resulting from claims arising from unsecured non-preferred creditors (non-subordinated liabilities) unless they do not meet specific eligibility criteria provided in this Directive. To enhance the resolvability of institutions through an effective use of the bail-in tool, resolution authorities should be able to require that the MREL is met with subordinated liabilities, in particular when there are clear indications that bailed-in creditors are likely to bear losses in resolution that would exceed their potential losses in insolvency. The requirement to meet MREL with subordinated liabilities should be requested only for a level necessary to prevent that losses of creditors in resolution are above losses that they would otherwise incur under insolvency. Any subordination of debt instruments requested by resolution authorities for the MREL should be without prejudice to the possibility to partly meet the TLAC minimum requirement with non-subordinated debt instruments in accordance with Regulation (EU) No 575/2013 as permitted by the TLAC standard.

(8) The scope of liabilities to meet the MREL includes, in principle, all liabilities resulting from claims arising from unsecured non-preferred creditors (non-subordinated liabilities) unless they do not meet specific eligibility criteria provided in this Directive. To enhance the resolvability of institutions through an effective use of the bail-in tool, resolution authorities should be able to require that the MREL is met with subordinated liabilities, in particular when there are clear indications that bailed-in creditors are likely to bear losses in resolution that would exceed their potential losses in insolvency. The requirement to meet MREL with subordinated liabilities should be requested only for a level necessary to prevent that losses of creditors in resolution are above losses that they would otherwise incur under insolvency. Any subordination of debt instruments requested by resolution authorities for the MREL should be without prejudice to the possibility to partly meet the TLAC minimum requirement with non-subordinated debt instruments in accordance with Regulation (EU) No 575/2013 as permitted by the TLAC standard. ***At the same time, where institutions have a high level of own capital, that should also be recognised in the application and calculation of the MREL. Institutions should be able to meet the MREL requirements with common equity tier 1 (CET1), additional tier 1 or tier 2 instruments, so that the same requirements on the MREL apply to institutions with both a higher and a lower stock of own capital. The objective of a level playing field between institutions should also be pursued at the global level, in particular when aligning the eligibility criteria for the MREL with those for the TLAC minimum requirement.***

#### Amendment 4

##### Proposal for a directive Recital 9 a (new)

*Text proposed by the Commission*

*Amendment*

***(9a) Specifically, eligible liabilities should not be subject to netting rights or set-off which would undermine their loss-absorbing capacity in resolution. It is therefore necessary that eligible liabilities are not subject to netting rights or set-off arrangements, although the contractual provisions governing the eligible liabilities are not required to contain a clause explicitly stating that the instrument is not subject to such rights. Equally there is no need for the contractual provisions governing the eligible liabilities to specify that those liabilities can be subject to write-down or conversion. The provisions governing the eligible liabilities should not have any incentive to redeem and should not give the holder the right to accelerate the future scheduled payment of interest or principal, other than in the event of liquidation.***

Or. en

#### Amendment 5

##### Proposal for a directive Recital 9 b (new)

*Text proposed by the Commission*

*Amendment*

***(9b) The entire stock of subordinated instruments issued before the date of adoption of eligibility criteria should be considered eligible for MREL without needing to fulfil the new eligibility criteria introduced with the risk reduction***

*package. Such a grandfathering rule is required because market participants could not anticipate those changes and need time to adjust their issuances. The grandfathering should encompass all new eligibility criteria, including netting and set-off rights, as well as acceleration rights.*

Or. en

## **Amendment 6**

**Proposal for a directive**  
**Article 1 – paragraph 19**  
Directive 2014/59/EU  
Article 29a – paragraph 2

*Text proposed by the Commission*

2. The suspension referred to in paragraph 1 shall not exceed the minimum period of time that the competent authority considers necessary to carry out the assessment referred to in point (a) of Article 27(1) or to make the determination referred to in point (a) of Article 32(1) and shall in any event not exceed **5** working days.

*Amendment*

2. The suspension referred to in paragraph 1 shall not exceed the minimum period of time that the competent authority considers necessary to carry out the assessment referred to in point (a) of Article 27(1) or to make the determination referred to in point (a) of Article 32(1) and shall in any event not exceed **two** working days.

Or. en

## **Amendment 7**

**Proposal for a directive**  
**Article 1 – paragraph 19**  
Directive 2014/59/EU  
Article 29a – paragraph 2a (new)

*Text proposed by the Commission*

*Amendment*

**2a. At the expiry of the period of suspension referred to in paragraph 2 of this Article, the suspension shall be lifted unless a determination has been made, in**

*accordance with point (a) of Article 32(1), that the institution is failing or likely to fail.*

Or. en

## **Amendment 8**

**Proposal for a directive**  
**Article 1 – paragraph 19**  
Directive 2014/59/EU  
Article 29a – paragraph 8a (new)

*Text proposed by the Commission*

*Amendment*

**8a.** *For institutions in respect of which the resolution plan provides that the entity is to be wound up under normal insolvency proceedings, Member States may maintain or adopt moratorium rules that exceed the scope and duration of the suspension power foreseen in this Article. The conditions of the use of moratorium foreseen in this Article shall be without prejudice to the conditions for such further reaching national moratoria.*

Or. en

## **Amendment 9**

**Proposal for a directive**  
**Article 1 – paragraph 22 a (new)**  
Directive 2014/59/EU  
Article 44 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**22a.** *In Article 44, the following paragraph is inserted:*  
**‘2a. Member States shall prohibit the institutions or entities referred to in points (b), (c) or (d) of Article 1(1) from making any suggestion, communication or representation that a liability other than**

*those listed in points (a) to (g) of paragraph 2 of this Article would not be subject to write-down or conversion powers.'*

Or. en

*Justification*

*AM to ensure that liabilities which are not excluded by 44(2) (the exclusions) are seen to be bail-inable. Require institutions not to suggest or communicate or represent that it is not bail-inable or would not be bailed in.*

**Amendment 10**

**Proposal for a directive**

**Article 1 – paragraph 23**

Directive 2014/59/EU

Article 45 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**2a. The institutions and entities referred to in points (b), (c) and (d) of Article 1(1) may meet any part of the requirement referred to in paragraph 1 with common equity tier 1, additional tier 1 or tier 2 instruments.**

Or. en

*Justification*

*This AM together with AM17 aims to ensure that well-capitalised institutions are not 'penalised' by being forced to issue extra debt to meet a MREL requirement and can use that high level of capitalisation to meet whatever requirement is set.*

**Amendment 11**

**Proposal for a directive**

**Article 1 – paragraph 23**

Directive 2014/59/EU

Article 45b – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

**1a. By way of derogation from paragraph 1, liabilities issued before ... [date W] which do not meet the conditions set out in points (g) to (o) of Article 72b(2) of Regulation (EU) No 575/2013 may be included in the amount of own funds and eligible liabilities of resolution entities included in MREL.**

Or. en

*Justification*

*Grandfathering provision concerning certain conditions in Art 72b CRR and in particular those which are not in the TLAC term sheet. Your rapporteur has left the cut-off date for the application of such grandfathering deliberately open and is ready to discuss what date should be used. An end date for the application of such grandfathering could also be discussed.*

## **Amendment 12**

### **Proposal for a directive**

#### **Article 1 – paragraph 23**

Directive 2014/59/EU

Article 45b – paragraph 3 – subparagraph 1

*Text proposed by the Commission*

Resolution authorities may decide that the requirement referred to in Article 45f is met by resolution entities with instruments that meet all conditions referred to in Article 72a of Regulation (EU) No 575/2013 with a view to **ensure** that the resolution entity can be resolved in a manner suitable to meet the resolution objectives.

*Amendment*

Resolution authorities may decide that **part or all of** the requirement referred to in Article 45f is met by resolution entities with instruments that meet all conditions referred to in Article 72a of Regulation (EU) No 575/2013 with a view to **ensuring** that the resolution entity can be resolved in a manner suitable to meet the resolution objectives.

Or. en

## **Amendment 13**

### **Proposal for a directive**

#### **Article 1 – paragraph 23**

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Directive 2014/59/EU  
Article 45b – paragraph 3 – subparagraph 1a (new)

*Text proposed by the Commission*

*Amendment*

***The level of the requirement that is to be covered by instruments that meet the conditions set out in Article 72b of Regulation (EU) No 575/2013 shall not exceed the level that arises or would arise from the application of Article 92a(1) of that Regulation.***

Or. en

*Justification*

*AM to avoid that the level of subordinated debt which resolution authorities impose on European banks is not higher than that required by the TLAC term sheet.*

#### **Amendment 14**

##### **Proposal for a directive**

##### **Article 1 – paragraph 23**

Directive 2014/59/EU

Article 45b – paragraph 3 – subparagraph 2 – introductory part

*Text proposed by the Commission*

*Amendment*

The resolution authority's decision under this paragraph shall contain the reasons for that decision ***on the basis of the following elements:***

The resolution authority's decision under this paragraph shall contain the reasons for that decision. ***Such reasons may include:***

Or. en

#### **Amendment 15**

##### **Proposal for a directive**

##### **Article 1 – paragraph 23**

Directive 2014/59/EU

Article 45b – paragraph 3 – subparagraph 2 – point a

*Text proposed by the Commission*

*Amendment*

(a) non-subordinated liabilities referred

(a) ***the fact that*** non-subordinated

to in the first and second paragraphs have the same priority ranking in the national insolvency hierarchy as certain liabilities that are excluded from the application of the write-down or conversion powers in accordance with Article 44(2) or Article 44(3);

liabilities referred to in the first and second paragraphs have the same priority ranking in the national insolvency hierarchy as certain liabilities that are excluded from the application of the write-down or conversion powers in accordance with Article 44(2) or Article 44(3);

Or. en

## Amendment 16

### Proposal for a directive

#### Article 1 – paragraph 23

Directive 2014/59/EU

Article 45b – paragraph 3 – subparagraph 2 – point c

*Text proposed by the Commission*

*Amendment*

***(c) the amount of subordinated liabilities shall not exceed the amount necessary to ensure that creditors referred to in point (b) shall not incur losses above the level of losses that they would otherwise have incurred in a winding up under normal insolvency proceedings.***

***deleted***

Or. en

## Amendment 17

### Proposal for a directive

#### Article 1 – paragraph 23

Directive 2014/59/EU

Article 45b – paragraph 3 – subparagraph 2 a (new )

*Text proposed by the Commission*

*Amendment*

***The amount of own funds and eligible liabilities required by a decision under this paragraph to be met with instruments that meet all of the conditions referred to in Article 72a of Regulation (EU) No 575/2013 shall not exceed the level that arises or would arise from the application***

*of Article 92a(1) of that Regulation. but subject to that shall be set at the amount necessary to ensure that creditors referred to in point (b) of the second subparagraph of this paragraph shall not incur losses above the level of losses that they would otherwise have incurred in a winding up under normal insolvency proceedings.*

Or. en

*Justification*

*AM to ensure that the level of subordinated debt which resolution authorities impose on banks in the EU is not higher than that required by the TLAC term sheet. CF also AM13.*

**Amendment 18**

**Proposal for a directive**

**Article 1 – paragraph 23**

Directive 2014/59/EU

Article 45c – paragraph 2 – subparagraph 2 b (new)

*Text proposed by the Commission*

*Amendment*

*Resolution authorities shall ensure that the loss absorption amount referred to in point (a) of the first subparagraph is not automatically considered to be greater than or equal to the actual level of own funds of the entity.*

Or. en

*Justification*

*This AM together with AM10 aims to ensure that well-capitalised institutions are not 'penalised' by being forced to issue extra debt to meet a MREL requirement and can use that high level of capitalisation to meet whatever requirement is set.*

**Amendment 19**

**Proposal for a directive**

**Article 1 – paragraph 23**

Directive 2014/59/EU

Article 45c – paragraph 3a (new)

**3a. Where the resolution authority assesses that an institution, if it were to fail, would be liquidated or put under insolvency proceeding, the requirement referred to in Article 45(1) shall not exceed the requirements referred to in points (a), (b) and (c) of Article 92(1) of Regulation (EU) No 575/2013 and in Article 104a of Directive 2013/36/EU.**

Or. en

*Justification*

*An institution that is small enough not to pose a systemic threat would not be expected to be put into resolution, if it is failing. If it is not put into resolution, the bail-in tool will not be used as such, and there is no need for a specific MREL requirement. The bank will therefore only need a loss absorption amount, no recapitalisation amount. Since the total capital requirement is expected to be sufficient to function as a buffer against losses under reasonable circumstances, the capital requirement according to CRD/CRR is sufficient to protect the liability holders of the bank.*

**Amendment 20**

**Proposal for a directive**

**Article 1 – paragraph 23**

Directive 2014/59/EU

Article 45h – paragraph 5 – subparagraph 4

*Text proposed by the Commission*

The matter shall not be referred to EBA after the end of the four-month period or after a joint decision has been reached.

*Amendment*

The matter shall not be referred to EBA after the end of the four-month period or after a joint decision has been reached. ***The group level resolution authority shall not refer the matter to EBA for binding mediation where the level set by the resolution authority of the subsidiary is within one percentage point of the consolidated level set under paragraph 4 of this Article under both measures set out in Article 45(2).***

Or. en

*Justification*

*This AM restores the 'safe harbour provision' in Article 45(10) BRRD, 5th subparagraph.*

**Amendment 21**

**Proposal for a directive**

**Article 1 – paragraph 24**

Directive 2014/59/EU

Article 55 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. Paragraph 1 of this Article shall not apply to liabilities of institutions or entities whose requirement under Article 45(1) equals the loss absorption amount as defined under point (a) of Article 45c(2), provided those liabilities are not counted towards that requirement.***

Or. en

*Justification*

*Proportionality element to exempt banks that will go into insolvency proceedings.*

**Amendment 22**

**Proposal for a directive**

**Article 1 – paragraph 24**

Directive 2014/59/EU

Article 55 – paragraph 2 – subparagraph 1 – introductory part

*Text proposed by the Commission*

*Amendment*

The requirement referred to in paragraph 1 may not apply where ***the resolution authority of a Member State determines all of the following conditions are met:***

The requirement referred to in paragraph 1 may not apply where ***either:***

Or. en

## Amendment 23

### Proposal for a directive

#### Article 1 – paragraph 24

Directive 2014/59/EU

Article 55 – paragraph 2 – subparagraph 1 – point a

#### *Text proposed by the Commission*

(a) **that** the liabilities or instruments **referred to in the first subparagraph** can be subject to write down and conversion powers by the resolution authority of a Member State pursuant to the law of the third country or to a binding agreement concluded with that third country;

#### *Amendment*

(a) the liabilities or instruments can be subject to write down and conversion powers by the resolution authority of a Member State pursuant to the law of the third country or to a binding agreement concluded with that third country; **or, both**

Or. en

## Amendment 24

### Proposal for a directive

#### Article 1 – paragraph 24

Directive 2014/59/EU

Article 55 – paragraph 2 – subparagraph 1 – point b

#### *Text proposed by the Commission*

(b) **that** it is legally, contractually or economically impracticable for an institution or entity referred to in point (b), (c) or (d) of Article 1(1) to include such a contractual term in certain liabilities;

#### *Amendment*

(b) it is legally, contractually or economically impracticable for an institution or entity referred to in point (b), (c) or (d) of Article 1(1) to include such a contractual term in certain liabilities; **and**

Or. en

## Amendment 25

### Proposal for a directive

#### Article 1 – paragraph 24

Directive 2014/59/EU

Article 55 – paragraph 2 – subparagraph 1 – point c

#### *Text proposed by the Commission*

(c) **that a waiver** from the requirement

#### *Amendment*

(c) **an exemption** from the requirement

referred to in paragraph 1 for certain liabilities does not impede the resolvability of the institutions and entities referred to in points (b), (c) and (d) of Article 1(1).

referred to in paragraph 1 for certain liabilities does not impede the resolvability of the institutions and entities referred to in points (b), (c) and (d) of Article 1(1).

Or. en

## Amendment 26

### Proposal for a directive

#### Article 1 – paragraph 24

Directive 2014/59/EU

Article 55 – paragraph 2 – subparagraph 2

#### *Text proposed by the Commission*

The liabilities referred to in points (b) and (c) shall not include debt instruments which are unsecured liabilities, Additional Tier 1 instruments, and Tier 2 instruments. Moreover, they shall be senior to the liabilities *which count towards the minimum requirement for own funds and permissible* liabilities.

#### *Amendment*

The liabilities referred to in points (b) and (c) shall not include debt instruments which are unsecured liabilities, Additional Tier 1 instruments, and Tier 2 instruments. Moreover, they shall be senior to the liabilities *with the ranking referred to in points (a), (b) and (c) of Article 108(2) and in Article 108(3). The sum of liabilities subject to exemptions shall not exceed 5 % of total* liabilities.

Or. en

#### *Justification*

*In case Art. 108(2) is limited to (b) and (c) under the creditor hierarchy proposal, adjust accordingly.*

## Amendment 27

### Proposal for a directive

#### Article 1 – paragraph 24

Directive 2014/59/EU

Article 55 – paragraph 2 – subparagraph 3a (new)

#### *Text proposed by the Commission*

#### *Amendment*

*Resolution authorities shall have the right to inspect contracts for which an institution or entity has determined that*

*points (b) and (c) of the first subparagraph apply. Resolution authorities may address a decision to the institution or entity that the provisions of those points are not met.*

Or. en

## **Amendment 28**

**Proposal for a directive**  
**Article 1 – paragraph 26**  
Directive 2014/59/EU  
Article 63 – paragraph 1 a

*Text proposed by the Commission*

1a. The period of the suspension pursuant to paragraph 1(n) shall not exceed the minimum period of time that the resolution authority considers necessary for the effective application of one or more resolution tools or for the purposes of the valuation pursuant to Article 36 and in any event shall not exceed **5** working days.

*Amendment*

1a. The period of the suspension pursuant to paragraph 1(n) shall not exceed the minimum period of time that the resolution authority considers necessary for the effective application of one or more resolution tools or for the purposes of the valuation pursuant to Article 36 and in any event shall not exceed *two* working days.

Or. en

## **Amendment 29**

**Proposal for a directive**  
**Article 1 – paragraph 41 – point a**  
Directive 2014/59/EU  
Article 111 – paragraph 1 – point c a (new)

*Text proposed by the Commission*

*Amendment*

*(ca) making any suggestion, communication or representation that a liability other than those listed in points (a) to (g) of Article 44(2) would not be subject to write-down or conversion powers, thereby infringing paragraph 2a of that Article;*



## EXPLANATORY STATEMENT

The Banking Recovery and Resolution Directive (BRRD) has changed the logic of the European financial markets. It has clarified that shareholders and investors have to take on the losses by themselves, not expecting that Governments and taxpayers shall bail them out. This is a principle that applies to all regular companies and now also to banks in the European Union.

It has two important consequences that are essential to maintain. This was one of the main aims of your rapporteur when he as Parliament's rapporteur was responsible for advancing the original BRRD proposal and turning it into legislation and reality.

First of all, when a bank is in trouble, there is a clear roadmap for how to deal with the losses. In principle, everything is bail-inable, not only own capital, with the consequence that the present owner will cover the losses, but also major investors and in the end depositors, in the ranking order decided. This means that in a resolution a bail-in can be applied without anyone being surprised or claiming that this was not foreseen. This means that there should be no room for anyone questioning or obstructing the bail-in.

For depositors and investors, this provides legal clarity and certainty which also gives security. Saved money of depositors is bailed in last and can also be refunded by national deposit insurance systems, within the applicable limits. Depositors can prepare themselves for a high level of security by spreading their savings across different banks or ensuring that the bank is safe and stable. The same applies to investors; they will be subject to a bail-in before depositors but in a designated order with different categories of capital. This facilitates an efficient bail-in and at the same time provides to everyone a clear picture of the risks they are exposed to, giving the opportunity to balance the risks that are acceptable.

Secondly, the awareness that everything can be bailed in creates market discipline where everyone knows that you can lose your shares, your capital or your investments. This forces banks to finance themselves in a way that provides owners and investors with the security they want in order to invest in the bank. As rapporteur for the BRRD, it was important for me, and for Parliament, to secure that all capital was bail-inable, and by that achieving legal clarity and a disciplined market.

Against this background, your rapporteur welcomes the introduction of TLAC in European legislation and in the BRRD as well as the SRMR, based upon international rules for global systemically important banks. At the same time, your rapporteur would like to underline that the special subordinated capital foreseen for loss absorption is not meant to circumvent the fact that with only certain specified exceptions all capital, all debt, is bail-inable, but rather that the subordinated debt is there to facilitate a rapid and stable process of resolution, not limit the debt that is bail-inable. For this reason, TLAC shall be implemented in line with G20 rules but not impose additional requirements beyond that', in order to pave the way for increased investments and clarify the risks for an investor or depositor in a bank. This approach is also important in order to achieve a level playing field for European banks in the global competition.

European banks which are not GSIs shall not be required to comply with the TLAC rules but

will be subject to the MREL as they already are. The Commission proposes to modify that regime as well.

It is your rapporteur's view that the rules regarding TLAC and MREL must be designed in a way that they do not punish banks for increasing their level of capital or for maintaining a high level. This means that the requirements for MREL must be designed so that a bank with a high levels of own capital meets the same requirements on MREL as an otherwise equivalent bank (in terms of size, risk, business model) with a lower level of own capital.

Beside the amendments to the BRRD, a proposal to align the Single Resolution Mechanism Regulation (SRMR) accordingly has been presented by the Commission. Your rapporteur follows the proposed logic of alignment and therefore amends the SRMR in line with the above mentioned changes to the BRRD, where applicable. In particular, additional requirements on the Single Resolution Board (SRB) proposed by the Commission that do however not exist for other Resolution Authorities have been aligned with the BRRD.

Beyond the above mentioned elements, amendments related to the insolvency ranking are necessary in order to integrate TLAC standard requirements into the BRRD. A separate proposal addressing the creditor hierarchy within the BRRD has therefore been presented by the Commission and amended by your rapporteur in a separate draft report.