



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Economic and Monetary Affairs

2012/0150(COD)

20.12.2012

AMENDMENTS

620 - 973

Draft report
Gunnar Hökmark
(PE497.897v01-00)

on the proposal for a directive 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 Directives 77/91/EEC and 82/891/EC, Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC and 2011/35/EC and Regulation (EU) No 1093/2010

Proposal for a directive
(COM(2012)0280 – C7-0136/2012 – 2012/0150(COD))

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PE502.085v01-00

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Amendment 620
Wolf Klinz

Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that resolution authorities, in consultation with competent authorities, assess the extent to which institutions and groups are resolvable without the assumption of extraordinary public financial support ***besides the use of the financing arrangements established in accordance with Article 91.*** An institution or group shall be deemed resolvable if it is feasible and credible for the resolution authority to either liquidate it under normal insolvency proceedings or to resolve it by applying the different resolution tools and powers to the institution and group without giving rise to significant adverse consequences for the financial systems, including in circumstances of broader financial instability or system wide events, of the Member State in which the institution is situated, having regard to the economy or financial stability in that same or other Member State or the Union and with a view to ensure the continuity of critical functions carried out by the institution or group either because they can be easily separated in a timely manner or by other means.

Amendment

1. Member States shall ensure that resolution authorities, in consultation with competent authorities, assess the extent to which institutions and groups are resolvable without the assumption of extraordinary public financial support. An institution or group shall be deemed resolvable if it is feasible and credible for the resolution authority to either liquidate it under normal insolvency proceedings or to resolve it by applying the different resolution tools and powers to the institution and group without giving rise to significant adverse consequences for the financial systems, including in circumstances of broader financial instability or system wide events, of the Member State in which the institution is situated, having regard to the economy or financial stability in that same or other Member State or the Union and with a view to ensure the continuity of critical functions carried out by the institution or group either because they can be easily separated in a timely manner or by other means.

Or. en

Amendment 621
Pablo Zalba Bidegain

Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that resolution authorities, in consultation with competent authorities, assess the extent to which institutions and groups are resolvable without the assumption of extraordinary public financial support besides the use of the financing arrangements established in accordance with Article 91. An institution or group shall be deemed resolvable if it is feasible and credible for the resolution authority to either liquidate it under normal insolvency proceedings or to resolve it by applying the different resolution tools and powers to the institution and group without giving rise to significant adverse consequences for the financial systems, including in circumstances of broader financial instability or system wide events, of the Member State in which the institution is situated, having regard to the economy or financial stability in that same or other Member State or the Union and with a view to ensure the continuity of critical functions carried out by the institution or group ***either because they can be easily separated in a timely manner or by other means.***

Amendment

1. Member States shall ensure that resolution authorities, in consultation with competent authorities, assess the extent to which institutions and groups are resolvable without the assumption of extraordinary public financial support besides the use of the financing arrangements established in accordance with Article 91. An institution or group shall be deemed resolvable if it is feasible and credible for the resolution authority to either liquidate it under normal insolvency proceedings or to resolve it by applying the different resolution tools and powers to the institution and group without giving rise to significant adverse consequences for the financial systems, including in circumstances of broader financial instability or system wide events, of the Member State in which the institution is situated, having regard to the economy or financial stability in that same or other Member State or the Union and with a view to ensure the continuity of critical functions carried out by the institution or group.

Or. en

Amendment 622

Elisa Ferreira

Proposal for a directive

Article 13 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that resolution authorities, in consultation with competent authorities, assess the extent to which institutions and groups are

Amendment

1. Member States shall ensure that resolution authorities, ***in order to draw up the resolution plans referred to in Section 3 of Chapter I of the present Title and in***

resolvable without the assumption of extraordinary public financial support besides the use of the financing arrangements established in accordance with Article 91. An institution or group shall be deemed resolvable if it is feasible and credible for the resolution authority to either liquidate it under normal insolvency proceedings or to resolve it by applying the different resolution tools and powers to the institution and group without giving rise to significant adverse consequences for the financial systems, including in circumstances of broader financial instability or system wide events, of the Member State in which the institution is situated, having regard to the economy or financial stability in that same or other Member State or the Union and with a view to ensure the continuity of critical functions carried out by the institution or group either because they can be easily separated in a timely manner or by other means.

consultation with competent authorities, assess the extent to which institutions and groups are resolvable without the assumption of extraordinary public financial support besides the use of the financing arrangements established in accordance with Article 91. An institution or group shall be deemed resolvable if it is feasible and credible for the resolution authority to either liquidate it under normal insolvency proceedings or to resolve it by applying the different resolution tools and powers to the institution and group without giving rise to significant adverse consequences for the financial systems, including in circumstances of broader financial instability or system wide events, of the Member State in which the institution is situated, having regard to the economy or financial stability in that same or other Member State or the Union and with a view to ensure the continuity of critical functions carried out by the institution or group either because they can be easily separated in a timely manner or by other means.

Or. en

Amendment 623

Marisa Matias, Jürgen Klute

Proposal for a directive

Article 13 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that resolution authorities, in consultation with competent authorities, assess the extent to which institutions and groups are resolvable without the assumption of extraordinary public financial support besides the use of the financing arrangements established in accordance with Article 91. An institution or group

Amendment

1. Member States shall ensure that resolution authorities, in consultation with competent authorities **and the EBA**, assess the extent to which institutions and groups are resolvable without the assumption of extraordinary public financial support besides the use of the financing arrangements established in accordance with Article 91. An institution or group

shall be deemed resolvable if it is feasible and credible for the resolution authority to either liquidate it under normal insolvency proceedings or to resolve it by applying the different resolution tools and powers to the institution and group without giving rise to significant adverse consequences for the financial systems, including in circumstances of broader financial instability or system wide events, of the Member State in which the institution is situated, having regard to the economy or financial stability in that same or other Member State or the Union and with a view to ensure the continuity of critical functions carried out by the institution or group either because they can be easily separated in a timely manner or by other means.

shall be deemed resolvable if it is feasible and credible for the resolution authority to either liquidate it under normal insolvency proceedings or to resolve it by applying the different resolution tools and powers to the institution and group without giving rise to significant adverse consequences for the financial systems, including in circumstances of broader financial instability or system wide events, of the Member State in which the institution is situated, having regard to the economy or financial stability in that same or other Member State or the Union and with a view to ensure the continuity of critical functions carried out by the institution or group either because they can be easily separated in a timely manner or by other means.

Or. en

Amendment 624

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a directive

Article 13 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that resolution authorities, in consultation with competent authorities, assess the extent to which institutions and groups are resolvable without the assumption of extraordinary public financial support besides the use of the financing arrangements established in accordance with Article 91. An institution or group shall be deemed resolvable if it is feasible and credible for the resolution authority to either liquidate it under normal insolvency proceedings or to resolve it by applying the different resolution tools and powers to the institution and group ***without giving rise to***

Amendment

1. Member States shall ensure that resolution authorities, in consultation with competent authorities, assess the extent to which institutions and groups are resolvable without the assumption of extraordinary public financial support besides the use of the financing arrangements established in accordance with Article 91. An institution or group shall be deemed resolvable if it is feasible and credible for the resolution authority to either liquidate it under normal insolvency proceedings or to resolve it by applying the different resolution tools and powers to the institution and group ***while reducing to the***

significant adverse consequences for the financial systems, including in circumstances of broader financial instability or system wide events, of the Member State in which the institution is situated, having regard to the economy or financial stability in that same or other Member State or the Union and with a view to ensure the continuity of critical functions carried out by the institution or group either because they can be easily separated in a timely manner or by other means.

maximum extent possible any significant adverse consequences for the financial systems, including in circumstances of broader financial instability or system wide events, of the Member State in which the institution is situated, having regard to the economy or financial stability in that same or other Member State or the Union and with a view to ensure the continuity of critical functions carried out by the institution or group either because they can be easily separated in a timely manner or by other means. ***EBA shall be timely notified whenever an institution or a group is not deemed to be resolvable.***

Or. en

Amendment 625
Slawomir Nitras

Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that resolution authorities, in consultation with competent authorities, assess the extent to which institutions **and groups** are resolvable without the assumption of extraordinary public financial support besides the use of the financing arrangements established in accordance with Article 91. An institution or group shall be deemed resolvable if it is feasible and credible for the resolution authority to either liquidate it under normal insolvency proceedings or to resolve it by applying the different resolution tools and powers to the institution and group without giving rise to significant adverse consequences for the financial systems, including in circumstances of broader financial instability or system wide events, of the Member State in which the institution is

Amendment

1. Member States shall ensure that resolution authorities, in consultation with competent authorities, assess the extent to which institutions are resolvable without the assumption of extraordinary public financial support besides the use of the financing arrangements established in accordance with Article 91. An institution or group shall be deemed resolvable if it is feasible and credible for the resolution authority to either liquidate it under normal insolvency proceedings or to resolve it by applying the different resolution tools and powers to the institution and group without giving rise to significant adverse consequences for the financial systems, including in circumstances of broader financial instability or system wide events, of the Member State in which the institution is situated, having regard to the

situated, having regard to the economy or financial stability in that same or other Member State or the Union and with a view to ensure the continuity of critical functions carried out by the institution or group either because they can be easily separated in a timely manner or by other means.

economy or financial stability in that same or other Member State or the Union and with a view to ensure the continuity of critical functions carried out by the institution or group either because they can be easily separated in a timely manner or by other means.

Or. en

Amendment 626

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a directive

Article 13 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. A group shall be deemed resolvable if the detailed ex ante principles for responsibility sharing as referred to in article 11.3(e) are assessed as being sufficient and appropriate by the group level resolution authority.

Or. en

Amendment 627

Olle Schmidt

Proposal for a directive

Article 13 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Resolution Authority shall inform the Competent Authorities, SSM and EBA, about its findings.

Or. en

Justification

The responsibility between the relevant authorities must be clearer. The Resolution authority should not perform supervision and a clarification is hence necessary.

Amendment 628

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a directive

Article 13 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The resolution authorities shall inform within two weeks their respective National Parliament of the cases where institutions under their assessment are not deemed to be resolvable. This information shall be treated as confidential.

Or. en

Amendment 629

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a directive

Article 13 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. EBA shall inform within two weeks the European Parliament of the cases where groups are not deemed to be resolvable. This information shall be treated as confidential.

Or. en

Amendment 630

Śławomir Nitras

Proposal for a directive
Article 13 – paragraph 3

Text proposed by the Commission

Amendment

3. EBA, in consultation with ESRB, shall develop draft regulatory technical standards to specify the matters to be examined for the assessment of the resolvability of institutions or groups provided for in paragraph 2. EBA shall submit those draft regulatory technical standards to the Commission within twelve months from the date of entry into force of this Directive.

deleted

Or. en

Amendment 631
Sharon Bowles

Proposal for a directive
Article 13 – paragraph 3

Text proposed by the Commission

Amendment

3. EBA, in consultation with ESRB, shall develop draft regulatory technical standards to specify the **matters** to be examined for the assessment of the resolvability of institutions or groups provided for in paragraph 2. EBA shall submit those draft regulatory technical standards to the Commission within twelve months from the date of entry into force of this Directive.

3. EBA, in consultation with ESRB, shall develop draft regulatory technical standards to specify the **criteria and processes** to be examined for the assessment of the resolvability of institutions or groups provided for in paragraph 2. EBA shall submit those draft regulatory technical standards to the Commission within twelve months from the date of entry into force of this Directive.

Or. en

Amendment 632
Pablo Zalba Bidegain

Proposal for a directive
Article 13 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Competent authorities will not be authorised to request entities to address any of the matters specified in Section C of the Annex until the Commission has adopted the draft regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Or. en

Amendment 633
Elisa Ferreira

Proposal for a directive
Article 14 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that when, pursuant to an assessment of resolvability carried out in accordance with Article 13, a resolution authority determines that there are potential substantive impediments to the resolvability of an institution, the resolution authority shall notify in writing that determination to the institution.

1. Member States shall ensure that when, pursuant to an assessment of resolvability carried out in accordance with Article 13, a resolution authority, ***in consultation with the competent authority and the institution***, determines that there are potential substantive impediments to the resolvability of an institution, the resolution authority shall notify in writing that determination to the institution.

Or. en

Amendment 634
Marianne Thyssen

Proposal for a directive
Article 14 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that when, pursuant to an assessment of resolvability carried out in accordance with Article 13, a resolution authority determines that there are ***potential*** substantive impediments to the resolvability of an institution, the resolution authority shall notify in writing that determination to the institution.

Amendment

1. Member States shall ensure that when, pursuant to an assessment of resolvability carried out in accordance with Article 13, a resolution authority determines that there are substantive impediments to the resolvability of an institution, the resolution authority shall notify in writing that determination to the institution.

Or. nl

Amendment 635
Elisa Ferreira

Proposal for a directive
Article 14 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The periods, respectively of six and eight months, referred to in Articles 9(1) and 12(4) are suspended since the notification referred to in the previous paragraph until the effective removal of any impediments to resolvability.

Or. en

Amendment 636
Vicky Ford

Proposal for a directive
Article 14 – paragraph 2

Text proposed by the Commission

Amendment

2. Within four months of the date of receipt of a notification made in accordance with paragraph 1, the institution shall propose to the ***resolution*** authority measures to address ***or remove*** the impediments

2. Within four months of the date of receipt of a notification made in accordance with paragraph 1, the institution shall propose to the ***competent*** authority ***possible*** measures to address the ***substantive*** impediments

identified in the notification. The **resolution authority**, in consultation with the **competent** authorities, shall assess whether those measures effectively address or remove the **impediments** in question.

identified in the notification. The **competent authorities**, in consultation with the **resolution** authorities, shall assess whether those measures effectively address or remove the **substantive** in question.

Or. en

Amendment 637
Marianne Thyssen

Proposal for a directive
Article 14 – paragraph 2

Text proposed by the Commission

2. Within four months of the date of receipt of a notification made in accordance with paragraph 1, the institution shall propose to the resolution authority measures to address or remove the impediments identified in the notification. The resolution authority, in consultation with the competent authorities, shall assess whether those measures effectively address or remove the impediments in question.

Amendment

2. Within four months of the date of receipt of a notification made in accordance with paragraph 1, the institution shall propose to the resolution authority measures to address or remove the **substantive** impediments identified in the notification. The resolution authority, in consultation with the competent authorities, shall assess whether those measures effectively address or remove the **substantive** impediments in question.

Or. nl

Amendment 638
Pablo Zalba Bidegain

Proposal for a directive
Article 14 – paragraph 3

Text proposed by the Commission

3. Where the resolution authority assesses that the measures proposed by an institution in accordance with paragraph 2 do not effectively reduce or remove the impediments in question, it shall, in consultation with the competent

Amendment

3. Where the resolution authority assesses that the measures proposed by an institution in accordance with paragraph 2 do not effectively reduce or remove the impediments in question, it shall, in consultation with the competent

authorities, identify alternative measures that may achieve that objective, and notify in writing those measures to the institution.

authorities, identify alternative measures that may achieve that objective, and notify in writing those measures to the institution.

Member States shall ensure that resolution authorities, in consultation with competent authorities, draw up a Code of Conduct on the Assessment of Resolvability which establishes (among others) the principles, criteria, management's right to challenge and deadlines on the authorities' measures to proceed to a removal of impediments to resolvability.

EBA shall develop draft implementing technical standards describing the content and standard form of the Code of Conduct.

EBA shall submit those draft implementing technical standards to the Commission within twelve months from the date of entry into force of this Directive.

Power is delegated to the Commission to adopt the draft implementing technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Or. en

Amendment 639
Olle Schmidt

Proposal for a directive
Article 14 – paragraph 3

Text proposed by the Commission

3. Where the resolution authority assesses that the measures proposed by an institution in accordance with paragraph 2 do not effectively reduce or remove the impediments in question, it shall, in consultation with the competent

Amendment

3. Where the resolution authority assesses that the measures proposed by an institution in accordance with paragraph 2 do not effectively reduce or remove the impediments in question, it shall, ***where necessary and proportionate, subject to***

authorities, identify alternative measures that may achieve that objective, and notify in writing those measures to the institution.

paragraph 5 and in consultation with the competent authorities, identify alternative measures that may achieve that objective, and notify in writing those measures to the institution.

Or. en

Justification

As set out in the Financial Stability Board's Key Attributes document, jurisdictions should ensure that no legal, regulatory or policy impediments exist that hinder effective cross-border resolution. Resolution authorities should first address these impediments before requiring changes to the institution.

Amendment 640

Mario Mauro, Alfredo Pallone

Proposal for a directive

Article 14 – paragraph 3

Text proposed by the Commission

3. Where the resolution authority assesses that the measures proposed by an institution in accordance with paragraph 2 do not effectively reduce or remove the impediments in question, it shall, in consultation with the competent authorities, identify alternative measures that may achieve that objective, and notify in writing those measures to the institution.

Amendment

3. Where the resolution authority assesses that the measures proposed by an institution in accordance with paragraph 2 do not effectively reduce or remove the impediments in question, it shall, **where necessary and proportionate, subject to paragraph 5 and** in consultation with the competent authorities, identify alternative measures that may achieve that objective, and notify in writing those measures to the institution.

Or. en

Amendment 641

Elisa Ferreira

Proposal for a directive

Article 14 – paragraph 3

Text proposed by the Commission

3. Where the resolution authority assesses that the measures proposed by an institution in accordance with paragraph 2 do not effectively reduce or remove the impediments in question, it shall, in consultation with the competent authorities, identify alternative measures that may achieve that objective, and notify in writing those measures to the institution.

Amendment

3. Where the resolution authority assesses that the measures proposed by an institution in accordance with paragraph 2 do not effectively reduce or remove the impediments in question, it shall, **where necessary and proportionate and** in consultation with the competent authorities, identify alternative measures that may achieve that objective, and notify in writing those measures to the institution.

Or. en

Amendment 642

Vicky Ford

Proposal for a directive

Article 14 – paragraph 3

Text proposed by the Commission

3. Where the **resolution** authority assesses that the measures proposed by an institution in accordance with paragraph 2 do not effectively reduce or remove the impediments in question, it shall, in consultation with the **competent authorities, identify** alternative measures that may achieve that objective, and notify in writing those measures to the institution.

Amendment

3. Where the **competent** authority assesses that the measures proposed by an institution in accordance with paragraph 2 do not effectively reduce or remove the impediments in question, it shall, **where necessary and proportionate, subject to paragraph 5 and** in consultation with the **resolution authority, require the institution to take** alternative measures that may achieve that objective, and notify in writing those measures to the institution.

Or. en

Amendment 643

Wolf Klinz

Proposal for a directive

Article 14 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

In identifying alternative measures, the resolution authority shall demonstrate how the measures proposed by the institution were not able to remove the impediment to resolution and how the alternative measures proposed are proportionate in removing impediments to resolution, and how other less intrusive measures are not sufficient.

Or. en

Amendment 644

Elisa Ferreira

Proposal for a directive

Article 14 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall ensure that the resolution authority, in consultation with the competent authority, draws up a Code of Conduct on the assessment of resolvability which includes the principles and criteria on the resolution authority's measures to proceed to a removal of impediments to resolvability.

Or. en

Amendment 645

Elisa Ferreira

Proposal for a directive

Article 14 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. EBA shall develop draft implementing technical standards for specifying the

content of the Code of Conduct referred to in the previous paragraph.

EBA shall submit those draft implementing technical standards to the Commission within twelve months from the date of entry into force of this Directive.

Power is delegated to the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.

Or. en

Amendment 646
Arlene McCarthy

Proposal for a directive
Article 14 – paragraph 4 – introductory part

Text proposed by the Commission

4. For the purposes of paragraph 3, ***measures identified by a resolution authority may, where necessary and proportionate*** to reduce or remove the impediments to resolvability in question, include the following:

Amendment

4. For the purposes of paragraph 3, ***where an institution is required*** to reduce or remove the impediments to resolvability in question ***measures identified may, where necessary and proportionate***, include the following:

Or. en

Justification

It is important that authorities can both identify impediments to resolvability and require firms to take action to address them.

Amendment 647
Marianne Thyssen

Proposal for a directive
Article 14 – paragraph 4 – point b

Text proposed by the Commission

Amendment

(b) requiring the institution to limit its maximum individual and aggregate exposures;

deleted

Or. nl

Amendment 648

Wolf Klinz

Proposal for a directive

Article 14 – paragraph 4 – point b

Text proposed by the Commission

Amendment

(b) requiring the institution to limit its maximum individual and aggregate exposures;

(b) requiring the institution to limit its maximum individual and aggregate exposures ***in accordance with Regulation EU [.../...CRR];***

Or. en

Amendment 649

Sharon Bowles

Proposal for a directive

Article 14 – paragraph 4 – point b

Text proposed by the Commission

Amendment

(b) requiring the institution to limit its maximum individual and aggregate exposures;

(b) requiring the institution to limit its maximum individual and aggregate exposures ***on both a risk weighted or unweighted basis;***

Or. en

Amendment 650

Vicky Ford

Proposal for a directive
Article 14 – paragraph 4 – point b

Text proposed by the Commission

(b) requiring the institution ***to limit its maximum individual and aggregate*** exposures;

Amendment

(b) requiring the institution ***or any member of its group to reduce its*** exposures;

Or. en

Amendment 651
Sharon Bowles

Proposal for a directive
Article 14 – paragraph 4 – point c

Text proposed by the Commission

(c) imposing specific or regular information requirements relevant for resolution purposes;

Amendment

(c) imposing specific or regular ***additional*** information requirements relevant for resolution purposes;

Or. en

Amendment 652
Marianne Thyssen

Proposal for a directive
Article 14 – paragraph 4 – point d

Text proposed by the Commission

(d) requiring the institution to divest specific assets;

Amendment

deleted

Or. nl

Amendment 653
Sharon Bowles

Proposal for a directive
Article 14 – paragraph 4 – point d

Text proposed by the Commission

(d) requiring the institution to divest specific assets;

Amendment

(d) requiring the institution to divest specific assets *or simplify its hedging strategies*;

Or. en

Amendment 654
Vicky Ford

Proposal for a directive
Article 14 – paragraph 4 – point d

Text proposed by the Commission

(d) requiring the institution to *divest specific* assets;

Amendment

(d) requiring the institution to *sell specified* assets;

Or. en

Amendment 655
Marianne Thyssen

Proposal for a directive
Article 14 – paragraph 4 – point e

Text proposed by the Commission

(e) requiring the institution to limit or cease specific existing or proposed activities;

Amendment

deleted

Or. nl

Amendment 656
Vicky Ford

Proposal for a directive
Article 14 – paragraph 4 – point e

Text proposed by the Commission

(e) requiring the institution to ***limit or cease specific existing or proposed activities;***

Amendment

(e) requiring the institution to ***refrain from engaging in certain lines of business;***

Or. en

Amendment 657
Marianne Thyssen

Proposal for a directive
Article 14 – paragraph 4 – point f

Text proposed by the Commission

(f) restricting or preventing the development or sale of new business lines or products;

Amendment

deleted

Or. nl

Amendment 658
Vicky Ford

Proposal for a directive
Article 14 – paragraph 4 – point f

Text proposed by the Commission

(f) restricting or preventing the development or sale of new business lines or products;

Amendment

deleted

Or. en

Amendment 659
Marianne Thyssen

Proposal for a directive
Article 14 – paragraph 4 – point g

Text proposed by the Commission

Amendment

(g) requiring changes to legal or operational structures of the institution so as to reduce complexity in order to ensure that critical functions may be legally and economically separated from other functions through the application of the resolution tools;

deleted

Or. nl

Amendment 660
Pablo Zalba Bidegain

Proposal for a directive
Article 14 – paragraph 4 – point g

Text proposed by the Commission

Amendment

(g) requiring changes to legal or operational structures of the institution so as to reduce complexity in order to ensure that critical functions may be legally and economically separated from other functions through the application of the resolution tools;

(g) requiring changes to legal or operational structures of the institution to safeguard the continuity of critical functions through the application of the resolution tools;

Or. en

Amendment 661
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive
Article 14 – paragraph 4 – point g

Text proposed by the Commission

Amendment

(g) requiring changes to legal or operational structures of the institution so

(g) requiring changes to legal or operational structures of the institution,

as to reduce complexity in order to ensure that critical functions may be legally and economically separated from other functions through the application of the resolution tools;

including where appropriate the structural separation of proprietary trading activities from relationship banking activities, so as to reduce complexity in order to ensure that critical functions may be legally and economically separated from other functions through the application of the resolution tools;

Or. en

Justification

structural separation of proprietary risk taking from relationship banking may be an effective way of improving the resolvability of an institution. In some jurisdictions where this is already in the pipeline, it is helpful to include this as one of the actions that can be required to "make the bank fit the plan" where the proposed resolution plan is deemed by the public authorities to insufficiently limit the risk to the tax payer

Amendment 662

Vicky Ford

Proposal for a directive

Article 14 – paragraph 4 – point g

Text proposed by the Commission

(g) requiring *changes to legal or operational structures of the institution so as to reduce complexity in order to ensure that critical functions may be legally and economically separated from other functions through the application of the resolution tools*;

Amendment

(g) requiring the institution *to simplify or change its corporate structure to facilitate the separation of critical functions by applying* the resolution tools;

Or. en

Amendment 663

Marianne Thyssen

Proposal for a directive

Article 14 – paragraph 4 – point h

Text proposed by the Commission

Amendment

(h) requiring a parent undertaking to set up a parent financial holding company in a Member State or a Union parent financial holding company; ***deleted***

Or. nl

Amendment 664
Vicky Ford

Proposal for a directive
Article 14 – paragraph 4 – point h

Text proposed by the Commission

Amendment

(h) requiring a parent undertaking to set up a parent financial holding company in a Member State or a Union parent financial holding company; ***deleted***

Or. en

Amendment 665
Śławomir Nitras

Proposal for a directive
Article 14 – paragraph 4 – point h

Text proposed by the Commission

Amendment

(h) requiring a parent undertaking to set up a parent financial holding company in a Member State or a Union parent financial holding company; ***deleted***

Or. en

Amendment 666
Sharon Bowles

Proposal for a directive
Article 14 – paragraph 4 – point h

Text proposed by the Commission

(h) requiring a parent undertaking to set up a parent financial holding company in a Member State or a Union parent financial holding company;

Amendment

(h) requiring a parent undertaking to set up a parent financial holding company **or operational company** in a Member State or a Union parent financial holding **company or operational** company;

Or. en

Amendment 667
Wolf Klinz

Proposal for a directive
Article 14 – paragraph 4 – point i

Text proposed by the Commission

(i) requiring a parent undertaking, or a company referred to in points (c) and (d) of Article 1 to issue the debt instruments or loans referred to in Article 39 (2);

Amendment

deleted

Or. en

Amendment 668
Marianne Thyssen

Proposal for a directive
Article 14 – paragraph 4 – point i

Text proposed by the Commission

(i) requiring a parent undertaking, or a company referred to in points (c) and (d) of Article 1 to issue the debt instruments or loans referred to in Article 39 (2);

Amendment

deleted

Or. nl

Amendment 669
Vicky Ford

Proposal for a directive
Article 14 – paragraph 4 – point i

Text proposed by the Commission

Amendment

(i) requiring a parent undertaking, or a company referred to in points (c) and (d) of Article 1 to issue the debt instruments or loans referred to in Article 39 (2); *deleted*

Or. en

Amendment 670
Slawomir Nitras

Proposal for a directive
Article 14 – paragraph 4 – point i

Text proposed by the Commission

Amendment

(i) requiring a parent undertaking, or a company referred to in points (c) and (d) of Article 1 to issue the debt instruments or loans referred to in Article 39 (2); *deleted*

Or. en

Amendment 671
Vicky Ford

Proposal for a directive
Article 14 – paragraph 4 – point i a (new)

Text proposed by the Commission

Amendment

(ia) requiring an institution to take steps to meet the minimum requirement for eligible liabilities parent undertaking, or a company referred to in point c and d of

Article 1 to issue the debt instruments or loans referred to in Article 39.2

Or. en

Amendment 672

Śławomir Nitras

Proposal for a directive

Article 14 – paragraph 4 – point j

Text proposed by the Commission

Amendment

(j) where an institution is the subsidiary of a mixed-activity holding company, requiring that the mixed-activity holding company set up a separate financial holding company to control the institution, if this is necessary in order to facilitate the resolution of the institution and to avoid the application of the resolution tools and powers specified in Title IV having an adverse effect on the non-financial part of the group.

deleted

Or. en

Amendment 673

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a directive

Article 14 – paragraph 4 – point j a (new)

Text proposed by the Commission

Amendment

(ja) requiring changes to the detailed ex ante principles for responsibility sharing referred to in paragraph 11.3(e)

Or. en

Amendment 674
Olle Schmidt

Proposal for a directive
Article 14 – paragraph 5

Text proposed by the Commission

5. Resolution authorities shall not base a determination in accordance with paragraph 1 on impediments resulting from factors beyond the control of the institution, including ***the operational and financial capacity of the resolution authority.***

Amendment

5. Resolution authorities shall not base a determination in accordance with paragraph 1 on impediments resulting from factors beyond the control of the institution, including:

(a) the operational and financial capacity of the resolution authority and resolution fund;

(b) impediments which are as a result of compliance with Union of national legislation or regulations;

(c) the absence of agreements pursuant to Article 11 or agreements pursuant to Article 88 with relevant third country authorities.

Or. en

Justification

As set out in the Financial Stability Board's Key Attributes document, jurisdictions should ensure that no legal, regulatory or policy impediments exist that hinder effective cross-border resolution. This amendment emphasises that these impediments should be addressed by changes to the frameworks in relevant jurisdictions and not by requirements upon the group subject to the assessment.

Amendment 675
Vicky Ford

Proposal for a directive
Article 14 – paragraph 5

Text proposed by the Commission

5. Resolution authorities shall not base a determination in accordance with paragraph 1 on impediments resulting from factors beyond the control of the institution, including ***the operational and financial capacity of the resolution authority.***

Amendment

5. Resolution authorities shall not base a determination in accordance with paragraph 1 on impediments resulting from factors beyond the control of the institution, including:

(a) the operational and financial capacity of the resolution authority and resolution financing arrangements;

(b) impediments which exist or arise as a result of compliance with Union or national legislation or regulations;

(c) the absence of agreements pursuant to Article 11 or agreements pursuant to Article 88 with relevant third country authorities.

Or. en

Amendment 676

Mario Mauro, Alfredo Pallone

Proposal for a directive

Article 14 – paragraph 5

Text proposed by the Commission

5. Resolution authorities shall not base a determination in accordance with paragraph 1 on impediments resulting from factors beyond the control of the institution, including ***the operational and financial capacity of the resolution authority.***

Amendment

5. Resolution authorities shall not base a determination in accordance with paragraph 1 on impediments resulting from factors beyond the control of the institution, including:

(a) the operational and financial capacity of the resolution authority and resolution financing arrangements;

(b) the absence of agreements pursuant to Article 11 or agreements pursuant to Article 88 with relevant third country

authorities.

Or. en

Amendment 677

Pablo Zalba Bidegain

Proposal for a directive

Article 14 – paragraph 6 – introductory part

Text proposed by the Commission

6. A notification made pursuant to paragraph 1 or 3 shall meet the following requirements:

Amendment

6. A notification *within the Code of Conduct on the Assessment of Resolvability* made pursuant to paragraph 1 or 3 shall meet the following requirements:

Or. en

Amendment 678

Elisa Ferreira

Proposal for a directive

Article 14 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. Member States shall ensure that institutions that are affected by measures decided by resolution authorities accordingly to this Article have appropriate rights of appeal of those decisions, namely the right of judicial review.

Or. en

Amendment 679

Wolf Klinz

Proposal for a directive

Article 14 – paragraph 7

Text proposed by the Commission

7. Before indentifying any measure referred to in paragraph 3, resolution authorities shall duly consider the potential effect of those measures on the stability of the financial system in other Member States.

Amendment

7. Before indentifying any measure referred to in paragraph 3, resolution authorities shall duly consider the potential effect of those measures on the ***particular institution, on the*** stability of the financial system in other Member States ***and Union as a whole.***

Or. en

Amendment 680

Olle Schmidt

**Proposal for a directive
Article 14 – paragraph 7**

Text proposed by the Commission

7. Before indentifying any measure referred to in paragraph 3, resolution authorities shall duly consider the potential effect of those measures ***on the stability of the financial system in other Member States.***

Amendment

7. Before identifying any measure referred to in paragraph 3 ***as necessary and proportionate***, resolution authorities shall duly consider the potential effect of those measures on:

(a) the single market for financial services;

(b) the stability of the financial system in Member States and the Union;

(c) the rights of the shareholders or owners in accordance with Union or national company law;

(d) competition in the financial sector in the relevant Member States;

(e) access to finance and third country markets for non-financial firms.

Or. en

Justification

When considering what measures may be necessary and to ensure they are proportionate, the resolution authority/ies should take into account the potential broader effects of any requirements to change the legal structure or business model of a firm on the financial system and EU economy.

Amendment 681

Vicky Ford

Proposal for a directive Article 14 – paragraph 7

Text proposed by the Commission

7. Before indentifying any measure referred to in paragraph 3, resolution authorities shall duly consider the potential effect of those measures on ***the stability of the financial system in other Member States***.

Amendment

7. Before indentifying any measure referred to in paragraph 3 ***as necessary and proportionate***, resolution authorities shall duly consider the potential effect of those measures on ***the single market for financial services***.

Or. en

Amendment 682

Sharon Bowles

Proposal for a directive Article 14 – paragraph 7

Text proposed by the Commission

7. Before indentifying any measure referred to in paragraph 3, resolution authorities shall duly consider the potential effect of those measures on the stability of the financial system in other Member States.

Amendment

7. Before indentifying any measure referred to in paragraph 3, resolution authorities shall duly consider the potential effect of those measures on the stability of the financial system in other Member States. ***EBA, in consultation with the ESRB, may issue guidelines concerning financial stability interactions with other Member States.***

Or. en

Amendment 683
Jean-Paul Gauzès

Proposal for a directive
Article 14 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. Member States shall ensure that institutions that are affected by the taking of measures by a resolution authority under this article have adequate rights of appeal and review, including judicial review, concerning such decision

Or. en

Amendment 684
Marianne Thyssen

Proposal for a directive
Article 14 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. Member States shall ensure that institutions affected by measures taken by a resolution authority pursuant to this article have adequate opportunities for appealing against, and seeking review of, this decision.

Or. nl

Amendment 685
Mario Mauro, Alfredo Pallone

Proposal for a directive
Article 14 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. Member States shall ensure that:

(a) institutions that are affected by the taking of measures by a resolution authority under this article have adequate rights of appeal and review, including judicial review, concerning such decision;

(b) necessary legislative measures are taken to remove impediments which exist or arise as a result of compliance with Union or national legislation or regulations.

Or. en

Amendment 686

Vicky Ford

Proposal for a directive

Article 14 – paragraph 8 – subparagraph 1

Text proposed by the Commission

Amendment

EBA shall develop draft regulatory technical standards for specifying the measures provided for in paragraph 4 and the circumstances in which each measure may be applied.

deleted

Or. en

Justification

The relevant measures are already outlined in detail in 14.4.

Amendment 687

Slawomir Nitras

Proposal for a directive

Article 14 – paragraph 8 – subparagraph 1

Text proposed by the Commission

EBA shall develop draft **regulatory technical standards** for specifying the measures provided for in paragraph 4 and the circumstances in which each measure may be applied.

Amendment

EBA shall develop draft **guidelines** for specifying the measures provided for in paragraph 4 and the circumstances in which each measure may be applied.

Or. en

Amendment 688
Ślawomir Nitras

Proposal for a directive
Article 14 – paragraph 8 – subparagraph 2

Text proposed by the Commission

EBA shall submit those draft **regulatory technical standards** to the Commission within twelve months from the date of entry into force of this Directive.

Amendment

EBA shall submit those draft **guidelines** to the Commission within twelve months from the date of entry into force of this Directive.

Or. en

Amendment 689
Ślawomir Nitras

Proposal for a directive
Article 14 – paragraph 8 – subparagraph 3

Text proposed by the Commission

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Amendment

deleted

Or. en

Amendment 690
Pablo Zalba Bidegain

Proposal for a directive
Article 15 – paragraph 1

Text proposed by the Commission

1. The group level resolution authorities and the resolution authorities of the **subsidiaries**, in consultation with the relevant competent authorities, shall consult each other within the resolution college and shall take all reasonable steps to reach a joint decision in regards to the application of measures identified in accordance with Article 14(3).

Amendment

1. The group level resolution authorities and the resolution authorities of the **institutions**, in consultation with the relevant competent authorities, shall consult each other within the resolution college and shall take all reasonable steps to reach a joint decision in regards to the application of measures identified in accordance with Article 14(3).

Or. en

Amendment 691
Vicky Ford

Proposal for a directive
Article 15 – paragraph 1

Text proposed by the Commission

1. The group level resolution authorities and the resolution authorities of the subsidiaries, in **consultation** with the relevant competent authorities, shall consult each other within the resolution college and shall take all reasonable steps to reach a joint decision in regards to the application of measures identified in accordance with Article 14(3).

Amendment

1. The group level resolution authorities and the resolution authorities of the subsidiaries, in **agreement** with the relevant competent authorities, shall consult each other within the resolution college and shall take all reasonable steps to reach a joint decision in regards to the application of measures identified in accordance with Article 14(3).

Or. en

Justification

As part of ongoing supervision of a viable firm, it is important that the competent authorities agree with the assessment and the proposed measures to remove impediments, since they will be responsible for requiring and enforcing those measures

Amendment 692

Elisa Ferreira

Proposal for a directive

Article 15 – paragraph 1

Text proposed by the Commission

1. The group level resolution authorities and the resolution authorities of the subsidiaries, in consultation with the relevant competent authorities, shall consult each other within the resolution college and shall take all reasonable steps to reach a joint decision in regards to the application of measures identified in accordance with Article 14(3).

Amendment

1. The group level resolution authorities and the resolution authorities of the subsidiaries ***and of the Member States where institutions have relevant branches***, in consultation with the relevant competent authorities, shall consult each other within the resolution college and shall take all reasonable steps to reach a joint decision in regards to the application of measures identified in accordance with Article 14(3).

Or. en

Amendment 693

Marisa Matias, Jürgen Klute

Proposal for a directive

Article 15 – paragraph 1

Text proposed by the Commission

1. The group level resolution authorities and the resolution authorities of the subsidiaries, in consultation with the relevant competent authorities, shall consult each other within the resolution college and shall take all reasonable steps to reach a joint decision in regards to the application of measures identified in accordance with Article 14(3).

Amendment

1. The group level resolution authorities and the resolution authorities of the subsidiaries, in consultation with the relevant competent authorities ***and the EBA***, shall consult each other within the resolution college and shall take all reasonable steps to reach a joint decision in regards to the application of measures identified in accordance with Article 14(3).

Or. en

Amendment 694

Diogo Feio

Proposal for a directive

Article 15 – paragraph 1

Text proposed by the Commission

1. The group level resolution authorities **and** the resolution authorities of the subsidiaries, in consultation with the relevant competent authorities, shall consult each other within the resolution college and shall take all reasonable steps to reach a joint decision in regards to the application of measures identified in accordance with Article 14(3).

Amendment

1. The group level resolution authorities, the resolution authorities of the subsidiaries **and the relevant branches**, in consultation with the relevant competent authorities, shall consult each other within the resolution college and shall take all reasonable steps to reach a joint decision in regards to the application of measures identified in accordance with Article 14(3).

Or. en

Amendment 695

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a directive

Article 15 – paragraph 1

Text proposed by the Commission

1. The group level resolution authorities and the resolution authorities of the subsidiaries, in consultation with the relevant competent authorities, shall consult each other within the resolution college and shall take all reasonable steps to reach a joint decision in regards to the application of measures identified in accordance with Article 14(3).

Amendment

1. The group level resolution authorities and the resolution authorities of the subsidiaries, in consultation with the relevant competent authorities, shall consult each other within the resolution college and shall take all reasonable steps to reach a joint decision in regards to the application of measures identified in accordance with Article 14(3) **as well as whether the detailed ex ante principles for the sharing of responsibility as referred to in 11.3(e) are deemed as not being sufficient or appropriate.**

Or. en

Amendment 696
Pablo Zalba Bidegain

Proposal for a directive
Article 15 – paragraph 2

Text proposed by the Commission

2. The group level resolution authority, in cooperation with the consolidating supervisor and EBA in accordance with Article 25(1) of Regulation (EU) No 1093/2010, shall prepare and submit a report to the parent undertakings or institution subject to consolidated supervision and to the resolution authorities of the *subsidiaries*. The report shall be prepared in consultation with the competent authorities, and shall analyse the substantive impediments to the effective application of the resolution tools and the exercising of the resolution powers in relation to the group. The report shall also recommend any measures that, in the authorities' view, are necessary or appropriate to remove those impediments.

Amendment

2. The group level resolution authority, in cooperation with the consolidating supervisor and EBA in accordance with Article 25(1) of Regulation (EU) No 1093/2010, shall prepare and submit a report to the parent undertakings or institution subject to consolidated supervision and to the resolution authorities of the *institutions*. The report shall be prepared in consultation with the competent authorities, and shall analyse the substantive impediments to the effective application of the resolution tools and the exercising of the resolution powers in relation to the group. The report shall also recommend any measures that, in the authorities' view, are necessary or appropriate to remove those impediments.

Or. en

Amendment 697
Danuta Maria Hübner, Krišjānis Kariņš

Proposal for a directive
Article 15 – paragraph 2

Text proposed by the Commission

2. The group level resolution authority, *in cooperation with the consolidating supervisor and* EBA in accordance with Article 25(1) of Regulation (EU) No 1093/2010, shall prepare and submit a report to the parent undertakings or institution subject to consolidated supervision and to the resolution authorities of the subsidiaries. The report

Amendment

2. The group level resolution authority, *together with competent authorities and the* EBA in accordance with Article 25(1) of Regulation (EU) No 1093/2010, shall prepare and submit a report to the parent undertakings or institution subject to consolidated supervision and to the resolution authorities of the subsidiaries. The report shall be prepared in consultation

shall be prepared in consultation with the competent authorities, and shall analyse the substantive impediments to the effective application of the resolution tools and the exercising of the resolution powers in relation to the group. The report shall also recommend any measures that, in the authorities' view, are necessary or appropriate to remove those impediments.

with the competent authorities, and shall analyse the substantive impediments to the effective application of the resolution tools and the exercising of the resolution powers in relation to the group. The report shall also recommend any measures that, in the authorities' view, are necessary or appropriate to remove those impediments.

Or. en

Amendment 698
Elisa Ferreira

Proposal for a directive
Article 15 – paragraph 2

Text proposed by the Commission

2. The group level resolution authority, in cooperation with the consolidating supervisor and EBA in accordance with Article 25(1) of Regulation (EU) No 1093/2010, shall prepare and submit a report to the parent undertakings or institution subject to consolidated supervision and to the resolution authorities of the subsidiaries. The report shall be prepared in consultation with the competent authorities, and shall analyse the substantive impediments to the effective application of the resolution tools and the exercising of the resolution powers in relation to the group. The report shall also recommend any measures that, in the authorities' view, are necessary or appropriate to remove those impediments.

Amendment

2. The group level resolution authority, in cooperation with the consolidating supervisor and EBA in accordance with Article 25(1) of Regulation (EU) No 1093/2010, shall prepare and submit a report to the parent undertakings or institution subject to consolidated supervision and to the resolution authorities of the subsidiaries, ***which will provide it to the subsidiaries under their supervision, and of the Member States where institutions have relevant branches.*** The report shall be prepared in consultation with the competent authorities, and shall analyse the substantive impediments to the effective application of the resolution tools and the exercising of the resolution powers in relation to the group. The report shall also recommend any measures that, in the authorities' view, are necessary or appropriate to remove those impediments.

Or. en

Amendment 699
Marianne Thyssen

Proposal for a directive
Article 15 – paragraph 2

Text proposed by the Commission

2. The group level resolution authority, in cooperation with the consolidating supervisor and EBA in accordance with Article 25(1) of Regulation (EU) No 1093/2010, shall prepare and submit a report to the parent undertakings or institution subject to consolidated supervision and to the resolution authorities of the subsidiaries. The report shall be prepared in consultation with the competent authorities, and shall analyse the substantive impediments to the effective application of the resolution tools and the exercising of the resolution powers in relation to the group. The report shall **also** recommend any measures that, in the authorities' view, are necessary or appropriate to remove those impediments.

Amendment

2. The group level resolution authority, in cooperation with the consolidating supervisor and EBA in accordance with Article 25(1) of Regulation (EU) No 1093/2010, shall prepare and submit a report to the parent undertakings or institution subject to consolidated supervision and to the resolution authorities of the subsidiaries. The report shall be prepared in consultation with the competent authorities, and shall analyse the substantive impediments to the effective application of the resolution tools and the exercising of the resolution powers in relation to the group. The report shall ***consider the impact on the institution's business model and*** recommend any proportionate and targeted measures that, in the authorities' view, are necessary or appropriate to remove those impediments.

Or. nl

Amendment 700
Diogo Feio

Proposal for a directive
Article 15 – paragraph 2

Text proposed by the Commission

2. The group level resolution authority, in cooperation with the consolidating supervisor and EBA in accordance with Article 25(1) of Regulation (EU) No 1093/2010, shall prepare and submit a report to the parent undertakings or institution subject to consolidated supervision and to the resolution

Amendment

2. The group level resolution authority, in cooperation with the consolidating supervisor and EBA in accordance with Article 25(1) of Regulation (EU) No 1093/2010, shall prepare and submit a report to the parent undertakings or institution subject to consolidated supervision and to the resolution

authorities of the subsidiaries. The report shall be prepared in consultation with the competent authorities, and shall analyse the substantive impediments to the effective application of the resolution tools and the exercising of the resolution powers in relation to the group. The report shall also recommend any measures that, in the authorities' view, are necessary or appropriate to remove those impediments.

authorities of the subsidiaries **and relevant branches**. The report shall be prepared in consultation with the competent authorities, and shall analyse the substantive impediments to the effective application of the resolution tools and the exercising of the resolution powers in relation to the group. The report shall also recommend any **proportionate and targeted** measures that, in the authorities' view, are necessary or appropriate to remove those impediments.

Or. en

Amendment 701
Vicky Ford

Proposal for a directive
Article 15 – paragraph 2

Text proposed by the Commission

2. The group level resolution authority, in cooperation with the consolidating supervisor and EBA in accordance with Article 25(1) of Regulation (EU) No 1093/2010, shall prepare and submit a report to the parent undertakings or institution subject to consolidated supervision **and to the resolution authorities of the subsidiaries**. The report shall be prepared in **consultation** with the competent authorities, and shall analyse the substantive impediments to the effective application of the resolution tools and the exercising of the resolution powers in relation to the group. The report shall **also** recommend any measures that, in the authorities' view, are necessary or appropriate to remove those impediments.

Amendment

2. The group level resolution authority, in cooperation with the consolidating supervisor and EBA in accordance with Article 25(1) of Regulation (EU) No 1093/2010, shall prepare and submit a report to the parent undertakings or institution subject to consolidated supervision. The report shall be prepared in **agreement** with the competent authorities, and shall analyse the substantive impediments to the effective application of the resolution tools and the exercising of the resolution powers in relation to the group. The report shall **consider the impact on the institution's business model and** recommend any measures that, in the authorities' view, are necessary or appropriate to remove those impediments.

Or. en

Amendment 702
Slawomir Nitras

Proposal for a directive
Article 15 – paragraph 2

Text proposed by the Commission

2. The group level resolution authority, ***in cooperation with the consolidating supervisor*** and EBA in accordance with Article 25(1) of Regulation (EU) No 1093/2010, shall prepare and submit a report to the parent undertakings or institution subject to consolidated supervision and to the resolution authorities of the subsidiaries. The report shall be prepared ***in consultation*** with the competent authorities, and shall analyse the substantive impediments to the effective application of the resolution tools and the exercising of the resolution powers ***in relation to the group***. The report shall also recommend any measures that, in the authorities' view, are necessary or appropriate to remove those impediments.

Amendment

2. The group level resolution authority ***together with competent authorities*** and EBA in accordance with Article 25(1) of Regulation (EU) No 1093/2010, shall prepare and submit a report to the parent undertakings or institution subject to consolidated supervision and to the resolution authorities of the subsidiaries. The report shall be prepared ***together*** with the competent authorities, and shall analyse the substantive impediments to the effective application of the resolution tools and the exercising of the resolution powers. The report shall also recommend any measures that, in the authorities' view, are necessary or appropriate to remove those impediments.

Or. en

Amendment 703
Elisa Ferreira

Proposal for a directive
Article 15 – paragraph 4

Text proposed by the Commission

4. The group level resolution authority shall communicate any measure proposed by the parent undertakings or institution subject to consolidated supervision to the consolidating supervisor, EBA and the resolution authorities of the subsidiaries. The group level resolution authorities and the resolution authorities of the subsidiaries, in consultation with the

Amendment

4. The group level resolution authority shall communicate any measure proposed by the parent undertakings or institution subject to consolidated supervision to the consolidating supervisor, EBA and the resolution authorities of the subsidiaries ***and of the Member States where institutions have relevant branches***. The group level resolution authorities and the

competent authorities, shall do everything within their power to reach a joint decision within the resolution college regarding the identification of the material impediments, and if necessary, the assessment of the measures proposed by the parent undertakings or institution subject to consolidated supervision and the measures required by the authorities in order to address or remove the impediments.

resolution authorities of the subsidiaries ***and of the Member States where institutions have relevant branches***, in consultation with the competent authorities, shall do everything within their power to reach a joint decision within the resolution college regarding the identification of the material impediments, and if necessary, the assessment of the measures proposed by the parent undertakings or institution subject to consolidated supervision and the measures required by the authorities in order to address or remove the impediments, ***which will take into account the potential impact of the measures in all the Member States where the group operates***.

Or. en

Amendment 704
Marisa Matias, Jürgen Klute

Proposal for a directive
Article 15 – paragraph 4

Text proposed by the Commission

4. The group level resolution authority shall communicate any measure proposed by the parent undertakings or institution subject to consolidated supervision to the consolidating supervisor, EBA and the resolution authorities of the subsidiaries. The group level resolution authorities and the resolution authorities of the subsidiaries, in consultation with the competent authorities, shall do everything within their power to reach a joint decision within the resolution college regarding the identification of the material impediments, and if necessary, the assessment of the measures proposed by the parent undertakings or institution subject to consolidated supervision and the measures required by the authorities in order to

Amendment

4. The group level resolution authority shall communicate any measure proposed by the parent undertakings or institution subject to consolidated supervision to the consolidating supervisor, EBA and the resolution authorities of the subsidiaries. The group level resolution authorities and the resolution authorities of the subsidiaries, in consultation with the competent authorities ***and the EBA***, shall do everything within their power to reach a joint decision within the resolution college regarding the identification of the material impediments, and if necessary, the assessment of the measures proposed by the parent undertakings or institution subject to consolidated supervision and the measures required by the authorities in

address or remove the impediments.

order to address or remove the impediments.

Or. en

Amendment 705

Diogo Feio

Proposal for a directive

Article 15 – paragraph 4

Text proposed by the Commission

4. The group level resolution authority shall communicate any measure proposed by the parent undertakings or institution subject to consolidated supervision to the consolidating supervisor, EBA and the resolution authorities of ***the subsidiaries***. The group level resolution authorities and the resolution authorities of the subsidiaries, in consultation with the competent authorities, shall do everything within their power to reach a joint decision within the resolution college regarding the identification of the material impediments, and if necessary, the assessment of the measures proposed by the parent undertakings or institution subject to consolidated supervision and the measures required by the authorities in order to address or remove the impediments.

Amendment

4. The group level resolution authority shall communicate any measure proposed by the parent undertakings or institution subject to consolidated supervision to the consolidating supervisor, EBA, ***the resolution authorities of the subsidiaries*** and the resolution authorities of ***relevant branches***. The group level resolution authorities and the resolution authorities of the subsidiaries, in consultation with the competent authorities, shall do everything within their power to reach a joint decision within the resolution college regarding the identification of the material impediments, and if necessary, the assessment of the measures proposed by the parent undertakings or institution subject to consolidated supervision and the measures required by the authorities in order to address or remove the impediments.

Or. en

Amendment 706

Danuta Maria Hübner, Krišjānis Kariņš

Proposal for a directive

Article 15 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Amendment

EBA may on its own initiative assist the resolution authorities in reaching an agreement in accordance with Article 19 of Regulation (EU) No 1093/2010.

deleted

Or. en

Justification

As a consequences of changes in Art. 15 paragraph 6 first subparagraph, this part is deleted.

Amendment 707
Slawomir Nitras

Proposal for a directive
Article 15 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Amendment

EBA may on its own initiative assist the resolution authorities in reaching an agreement in accordance with Article 19 of Regulation (EU) No 1093/2010.

deleted

Or. en

Amendment 708
Wolf Klinz

Proposal for a directive
Article 15 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Amendment

EBA may on ***its own initiative*** assist the resolution authorities in reaching an agreement in accordance with Article 19 of Regulation (EU) No 1093/2010.

EBA may on ***the request of resolution authorities*** assist the resolution authorities in reaching an agreement in accordance with Article 19 of Regulation (EU) No 1093/2010.

Amendment 709
Marisa Matias, Jürgen Klute

Proposal for a directive
Article 15 – paragraph 5 – subparagraph 2

Text proposed by the Commission

EBA ***may on its own initiative*** assist the resolution authorities in reaching an agreement in accordance with Article 19 of Regulation (EU) No 1093/2010.

Amendment

EBA ***will*** assist the resolution authorities in reaching an agreement in accordance with Article 19 of Regulation (EU) No 1093/2010.

Amendment 710
Danuta Maria Hübner, Krišjānis Kariņš

Proposal for a directive
Article 15 – paragraph 6 – subparagraph 1

Text proposed by the Commission

In the absence of a joint decision within four months from the date of submission of the report referred to in paragraphs 1 or 2, the group level resolution authority ***shall make its own decision on the appropriate measures to be taken*** in accordance with Article 14(3) ***in relation to the group as a whole***.

Amendment

In the absence of a joint decision within four months from the date of submission of the report referred to in paragraphs 1 or 2, the group level resolution authority ***may consult EBA at the request of any authority concerned or on its own initiative. In this case EBA shall carry out non-binding mediation*** in accordance with Article 31(c) ***of Regulation (EU) No 1093/2010. In such case, all the authorities involved shall defer their decisions pending the conclusions of the non-binding mediation. If as a result of the mediation process no agreement has been reached by the competent authorities within 1 month, each authority may take its own decisions with respect to institutions in their jurisdiction. Where an authority makes such a decision, it must***

consider the impact of that action on financial stability in other Member States.

Or. en

Justification

Although the important role of EBA in the conciliation process is recognised, only non-binding mediation should be in place in case of a missing joint decision between resolution authorities regarding the identification of the impediments to resolvability and the assessment of the measures required in order to address or remove those obstacles. This is due to potential fiscal consequences for Member States.

Amendment 711

Vicky Ford

Proposal for a directive

Article 15 – paragraph 6 – subparagraph 1

Text proposed by the Commission

In the absence of a joint decision within four months from the date of submission of the report referred to in paragraphs 1 or 2, the group level resolution authority shall make its own decision on the appropriate measures to be taken in accordance with Article 14(3) in relation to the group as a whole.

Amendment

In the absence of a joint decision within four months from the date of submission of the report referred to in paragraphs 1 or 2, the group level resolution authority, ***in cooperation with the consolidating supervisor***, shall make its own decision on the appropriate measures to be taken in accordance with Article 14(3) in relation to the group as a whole.

Or. en

Amendment 712

Śławomir Nitras

Proposal for a directive

Article 15 – paragraph 6 – subparagraph 1

Text proposed by the Commission

In the absence of a joint decision within four months from the date of submission of

Amendment

In the absence of a joint decision within four months from the date of submission of

the report referred to in paragraphs 1 or 2, the group level resolution authority shall **make its own decision on the appropriate measures to be taken** in accordance with Article 14(3) **in relation to the group as a whole**.

the report referred to in paragraphs 1 or 2, the group level resolution authority shall **consult EBA at the request of any other authority concerned or on its own initiative. In this case EBA may carry out non-binding mediation** in accordance with Article 31(c) of Regulation (EU) No 1093/2010. **All the authorities involved shall then defer their decisions pending the conclusions of the non-binding mediation. If as a result of the mediation process no agreement has been reached by the competent authorities within one month, each authority may take its own decisions with respect to institutions in their jurisdiction. Where an authority makes such decisions, it must consider the impact of that action on financial stability in other Member States.**

Or. en

Justification

Responsibility for financial stability remains at local level and the cost of bank failure is borne by local depositors. Consolidating supervisor or group resolution authorities should not decide where there is no joint decision of local authorities. Such decisions should however consider the impact on financial stability in other Member States. Art 19 EBA Regulation refers to disagreements between competent i.e. supervisory authorities, not resolution authorities. EBA should carry out only non-binding mediation in accordance with Art 31(c) of that regulation.

Amendment 713 **Ildikó Gáll-Pelcz**

Proposal for a directive **Article 15 – paragraph 6 – subparagraph 1**

Text proposed by the Commission

In the absence of a joint decision within four months from the date of submission of the report referred to in paragraphs 1 or 2, **the group level** resolution authority shall make its own decision on the appropriate

Amendment

In the absence of a joint decision **between resolution authorities** within four months from the date of submission of the report referred to in paragraphs 1 or 2, **each** resolution authority shall make its own

measures to be taken in accordance with Article 14(3) in relation to the ***group as a whole***.

decision on the appropriate measures to be taken in accordance with Article 14(3) in relation to the ***institution in its jurisdiction***.

Or. en

Amendment 714

Danuta Maria Hübner, Krišjānis Kariņš

Proposal for a directive

Article 15 – paragraph 6 – subparagraph 2

Text proposed by the Commission

Amendment

The decision shall be set out in a document containing a full reasoning and shall take into account the views and reservations of the other resolution authorities expressed during the four months period. The decision shall be provided to the parent undertaking or institution which is subject to consolidated supervision by the group level resolution authority.

deleted

Or. en

Justification

As a consequences of changes in Art. 15 paragraph 6 first subparagraph, this part is deleted.

Amendment 715

Slawomir Nitras

Proposal for a directive

Article 15 – paragraph 6 – subparagraph 2

Text proposed by the Commission

Amendment

The decision shall be set out in a document containing a full reasoning and shall take into account the views and

deleted

reservations of the other resolution authorities expressed during the four months period. The decision shall be provided to the parent undertaking or institution which is subject to consolidated supervision by the group level resolution authority.

Or. en

Amendment 716
Pablo Zalba Bidegain

Proposal for a directive
Article 15 – paragraph 6 – subparagraph 2

Text proposed by the Commission

The decision shall be set out in a **document** containing a full reasoning and shall take into account the views and reservations of the other resolution authorities expressed during the four months period. The decision shall be provided to the parent undertaking or institution which is subject to consolidated supervision by the group level resolution authority.

Amendment

The decision shall be set out in a **Code of Conduct on the Assessment of Resolvability** containing a full reasoning and shall take into account the views and reservations of the other resolution authorities expressed during the four months period. The decision shall be provided to the parent undertaking or institution which is subject to consolidated supervision by the group level resolution authority.

Or. en

Amendment 717
Vicky Ford

Proposal for a directive
Article 15 – paragraph 6 – subparagraph 2

Text proposed by the Commission

The decision shall be set out in a **document containing a full reasoning** and shall take into account **the views and reservations** of the other resolution authorities expressed

Amendment

The decision shall be set out in a **reasoned document** and shall take into account **any objection** of the other **competent authorities and** resolution authorities

during the four months period. *The decision shall be provided to the parent undertaking or institution which is subject to consolidated supervision by the group level resolution authority.*

expressed during the four months period. *It shall give reasons for rejecting any proposals of the resolution authorities of the subsidiaries and an assessment of the expected impact of its decision on the economy and financial stability in the Member State of the competent authorities where concerns have been raised.*

Or. en

Justification

There should be a clear duty on the group resolution authority to duly consider the potential impact of the decision on the Member States in which subsidiaries of the group are present, and a procedure to ensure this happens.

Amendment 718 **Ildikó Gáll-Pelcz**

Proposal for a directive **Article 15 – paragraph 6 – subparagraph 2**

Text proposed by the Commission

The decision shall be set out in a document containing a full reasoning and shall take into account the views and reservations of the other resolution authorities expressed during the four months period. *The decision shall be provided to the parent undertaking or institution which is subject to consolidated supervision by the group level resolution authority.*

Amendment

The decision shall be set out in a document containing a full reasoning and shall take into account the views and reservations of the other resolution authorities expressed during the four months period. *Each competent authority shall notify its decision to the group level resolution authority and to the concerned credit institution in its jurisdiction. The group level resolution authority shall notify the decision to the parent undertaking of the institution subject to consolidated supervision and to the other resolution authorities.*

Or. en

Amendment 719

Danuta Maria Hübner, Krišjānis Kariņš

Proposal for a directive

Article 15 – paragraph 6 – subparagraph 3

Text proposed by the Commission

Amendment

The decision referred to in the first subparagraph shall be recognised as conclusive and applied by the competent authorities in the Member States concerned. **deleted**

Or. en

Justification

As a consequences of changes in Art. 15 paragraph 6 first subparagraph, this part is deleted.

Amendment 720

Slawomir Nitras

Proposal for a directive

Article 15 – paragraph 6 – subparagraph 3

Text proposed by the Commission

Amendment

The decision referred to in the first subparagraph shall be recognised as conclusive and applied by the competent authorities in the Member States concerned. **deleted**

Or. en

Amendment 721

Jean-Paul Gauzès

Proposal for a directive

Article 15 – paragraph 6 – subparagraph 3

Text proposed by the Commission

The decision referred to in the first subparagraph shall be ***recognised as conclusive and*** applied by the competent authorities in the Member States concerned.

Amendment

The decision referred to in the first subparagraph shall be applied by the competent authorities in the Member States concerned. ***Member states shall ensure that institutions that are affected by the taking of measures by a resolution authority under this article have adequate rights of appeal and review, including judicial review, concerning such decision.***

Or. en

Amendment 722

Vicky Ford

Proposal for a directive

Article 15 – paragraph 6 – subparagraph 3

Text proposed by the Commission

The decision referred to in the first subparagraph shall be recognised as conclusive and applied by the competent authorities in the Member States concerned.

Amendment

Without prejudice to the binding mediation procedure outlined below, the decision referred to in the first subparagraph shall be recognised as conclusive and applied by the competent authorities in the Member States concerned.

Or. en

Justification

Member States should have the ability to challenge the decision of the group resolution authority where it believes it has not followed the correct procedure as outlined in this Article.

Amendment 723

Ildikó Gáll-Pelcz

Proposal for a directive

Article 15 – paragraph 6 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

The decision of the group level resolution authority shall take account of the need for resolution to be planned or coordinated by the resolution authorities concerned, and of the potential impact on the stability of the financial system in the Member States concerned.

EBA may upon request assist the competent authorities in reaching an agreement in accordance with Article 19(1) second subparagraph of Regulation No (EC) 1093/2010.

Or. en

Amendment 724

Vicky Ford

Proposal for a directive

Article 15 – paragraph 6 – subparagraph 4

Text proposed by the Commission

Amendment

Where, at the end of the four-month period, any of the resolution authorities concerned has referred the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010, the group level resolution authority shall defer its decision and await any decision that EBA may take in accordance with Article 19(3) of that Regulation. EBA shall take its decision within one month and the four-month period shall be deemed the conciliation period within the meaning of that Regulation. The subsequent decision of the group level resolution authority shall be in conformity with the decision of EBA. The matter shall not be referred to EBA after the end of the four month period or after a joint decision has been

deleted

reached.

Or. en

Amendment 725

Danuta Maria Hübner, Krišjānis Kariņš

Proposal for a directive

Article 15 – paragraph 6 – subparagraph 4

Text proposed by the Commission

Amendment

Where, at the end of the four-month period, any of the resolution authorities concerned has referred the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010, the group level resolution authority shall defer its decision and await any decision that EBA may take in accordance with Article 19(3) of that Regulation. EBA shall take its decision within one month and the four-month period shall be deemed the conciliation period within the meaning of that Regulation. The subsequent decision of the group level resolution authority shall be in conformity with the decision of EBA. The matter shall not be referred to EBA after the end of the four month period or after a joint decision has been reached.

deleted

Or. en

Justification

As a consequences of changes in Art. 15 paragraph 6 first subparagraph, this part is deleted.

Amendment 726

Slawomir Nitras

Proposal for a directive

Article 15 – paragraph 6 – subparagraph 4

Text proposed by the Commission

Amendment

Where, at the end of the four-month period, any of the resolution authorities concerned has referred the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010, the group level resolution authority shall defer its decision and await any decision that EBA may take in accordance with Article 19(3) of that Regulation. EBA shall take its decision within one month and the four-month period shall be deemed the conciliation period within the meaning of that Regulation. The subsequent decision of the group level resolution authority shall be in conformity with the decision of EBA. The matter shall not be referred to EBA after the end of the four month period or after a joint decision has been reached.

deleted

Or. en

**Amendment 727
Ildikó Gáll-Pelcz**

**Proposal for a directive
Article 15 – paragraph 6 – subparagraph 4**

Text proposed by the Commission

Amendment

Where, at the end of the four-month period, any of the resolution authorities concerned has referred the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010, the group level resolution authority shall defer its decision and await any decision that EBA may take in accordance with Article 19(3) of that Regulation. EBA shall take its decision within one month and the four-month period shall be deemed the conciliation period within the meaning of that Regulation. The subsequent decision

deleted

of the group level resolution authority shall be in conformity with the decision of EBA. The matter shall not be referred to EBA after the end of the four month period or after a joint decision has been reached.

Or. en

Amendment 728
Pablo Zalba Bidegain

Proposal for a directive
Article 15 – paragraph 6 – subparagraph 4

Text proposed by the Commission

Where, at the end of the four-month period, any of the resolution authorities concerned has referred the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010, the group level resolution authority shall defer its decision and await any decision that EBA may take in accordance with Article 19(3) of that Regulation. EBA shall take its decision within one month and the four-month period shall be deemed the conciliation period within the meaning of that Regulation. The subsequent decision of the group level resolution authority shall be in conformity with the decision of EBA. 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

Where, at the end of the four-month period, any of the resolution authorities concerned has referred the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010, the group level resolution authority shall defer its decision and await any decision that EBA may take in accordance with Article 19(3) of that Regulation. EBA shall take its decision within one month and the four-month period shall be deemed the conciliation period within the meaning of that Regulation. The subsequent decision of the group level resolution authority shall be in conformity with the decision of EBA ***and set out in a Code of Conduct on the Assessment of Resolvability***. The matter shall not be referred to EBA after the end of the four month period or after a joint decision has been reached.

Or. en

Amendment 729
Pablo Zalba Bidegain

Proposal for a directive
Article 15 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. EBA shall develop draft implementing technical standards describing the content and standard form of the Code of Conduct on the Assessment of Resolvability which establishes (among others) the principles, criteria, management's right to challenge and deadlines on the authorities' measures to proceed to a removal of impediments to resolvability. EBA shall submit those draft implementing technical standards to the Commission within twelve months from the date of entry into force of this Directive. Power is delegated to the Commission to adopt the draft implementing technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.

Or. en

Amendment 730
Vicky Ford

Proposal for a directive
Article 15 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. If a competent authority or resolution authority is of the opinion that the group resolution authority has not followed the procedure outlined above they may refer the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010. In these circumstances, the group resolution authority shall not take the proposed action until EBA takes its decision.

There shall be a one month conciliation period, after which EBA shall take its decision, which must respect the safeguards in Article 38 of Regulation (EU) No 1093/2010.

In the event that EBA finds that the authority has not followed the correct procedure, it may require the authority to repeat the consultation following the procedure outlined above.

Or. en

Amendment 731

Vicky Ford

Proposal for a directive

Article 15 – paragraph 6 b (new)

Text proposed by the Commission

Amendment

6b. The resolution authority of each Member State where a subsidiary is located may propose additional action in relation to a subsidiary in their Member State if it considers it necessary to ensure continuity of critical functions or to avoid significant adverse effects on financial stability, and provided that it does not interfere with the actions to be taken according to the group resolution authority in respect of the group as a whole.

It must provide its proposal to the consolidating supervisor, group resolution authority and members of the resolution college.

Within two months, these authorities may raise any concerns or objections.

In the absence of any objections, the resolution authority may take the proposed action.

Where the group resolution authority or other member of the college has raised an

objection, the resolution authority must duly consider those objections and concerns and may then make a decision.

The decision shall be set out in a reasoned document and shall take into account any objection of the other competent authorities and resolution authorities expressed during the four-month period. It shall give reasons for rejecting any proposals of the resolution authorities of the subsidiaries and an assessment of the expected impact of its decision on the economy and financial stability in the Member State of the authorities where concerns have been raised.

Or. en

Justification

Host Member States should have the ability to take additional actions if they believe they are necessary in order to protect financial stability and ensure continuity of critical functions, provided that these actions do not interfere with the actions for the group as a whole.

Amendment 732

Vicky Ford

Proposal for a directive

Article 15 – paragraph 6 c (new)

Text proposed by the Commission

Amendment

6c. If a member of the college is of the opinion that a resolution authority has not followed the procedure outlined above, it may refer the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010. In these circumstances, the authority shall not take the proposed action until EBA take its decision.

There shall be a one month conciliation period, after which EBA shall take its decision, which must respect the

safeguards in Article 38 of Regulation (EU) No 1093/2010.

In the event that EBA finds that the authority has not followed the correct procedure, it may require the authority to repeat the consultation following the procedure outlined above.

Or. en

Amendment 733

Vicky Ford

**Proposal for a directive
Article 16**

Text proposed by the Commission

Amendment

Article 16

deleted

Or. en

Amendment 734

Wolf Klinz

**Proposal for a directive
Article 16 – paragraph 1**

Text proposed by the Commission

Amendment

1. Member States shall ensure that a parent institution in a Member State, or a Union parent institution, or a company referred to in points (c) and (d) of Article 1 and its subsidiaries that are institutions or financial institutions covered by the supervision of the parent undertaking, may enter into an agreement to provide financial support to any other party to the agreement that experiences financial difficulties, provided that the conditions laid down in this chapter are satisfied.

1. Member States shall ensure that a parent institution in a Member State, or a Union parent institution, or a company referred to in points (c) and (d) of Article 1 and its subsidiaries ***in another Member States or third countries*** that are institutions or financial institutions covered by the supervision of the parent undertaking, may enter into an agreement to provide financial support to any other party to the agreement that experiences financial difficulties, provided that the conditions laid down in this chapter are satisfied.

Justification

Clarification in accordance with the Commission's proposal in Recital 22.

Amendment 735

Olle Schmidt

Proposal for a directive

Article 16 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that a parent institution in a Member State, or a Union parent institution, or a company referred to in points (c) and (d) of Article 1 and its subsidiaries that are institutions or financial institutions covered by the supervision of the parent undertaking, may enter into **an** agreement to provide financial support to any other party to the agreement that experiences financial difficulties, provided that the conditions laid down in this chapter are satisfied.

Amendment

1. Member States shall ensure that a parent institution in a Member State, or a Union parent institution, or a company referred to in points (c) and (d) of Article 1 and its subsidiaries that are institutions or financial institutions covered by the supervision of the parent undertaking, may enter into **a specific agreement, for the purposes of this Directive**, to provide financial support to any other party to the agreement that experiences financial difficulties, provided that the conditions laid down in this chapter are satisfied.

Justification

It is important that intra-group financial support agreements under the RRD do not impede institutions from providing financial support outside the agreement - which are already subject to prudential and corporate governance restrictions.

Amendment 736

Diogo Feio

Proposal for a directive

Article 16 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that a parent institution in a Member State, or a Union parent institution, or a company referred to in points (c) and (d) of Article 1 and its subsidiaries that are institutions or financial institutions covered by the supervision of the parent undertaking, may enter into an agreement to provide financial support to any other party to the agreement that experiences financial difficulties, provided that the conditions laid down in this chapter are satisfied.

Amendment

1. *In order to overcome potential legal impediments to providing financial support within a group of institutions,* Member States shall ensure that a parent institution in a Member State, or a Union parent institution, or a company referred to in points (c) and (d) of Article 1 and its subsidiaries that are institutions or financial institutions covered by the supervision of the parent undertaking, may enter into an agreement to provide financial support to any other party to the agreement that experiences financial difficulties, provided that the conditions laid down in this chapter are satisfied. ***The provisions in this chapter shall not restrict the operation of centralised funding within a group of institutions in normal circumstances.***

Or. en

Amendment 737

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a directive

Article 16 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that a parent institution in a Member State, or a Union parent institution, or a company referred to in points (c) and (d) of Article 1 and its subsidiaries that are institutions or financial institutions covered by the supervision of the parent undertaking, **may** enter into an agreement to provide financial support to any other party to the agreement that experiences financial difficulties, provided that the conditions laid down in this chapter are satisfied.

Amendment

1. Member States shall ensure that a parent institution in a Member State, or a Union parent institution, or a company referred to in points (c) and (d) of Article 1 and its subsidiaries that are institutions or financial institutions covered by the supervision of the parent undertaking, **shall** enter into an agreement to provide financial support to any other party to the agreement that experiences financial difficulties, provided that the conditions laid down in this chapter are satisfied.

Amendment 738
Elisa Ferreira

Proposal for a directive
Article 16 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that a parent institution in a Member State, or a Union parent institution, or a company referred to in points (c) and (d) of Article 1 and its subsidiaries that are institutions or financial institutions covered by the supervision of the parent undertaking, may enter into an agreement to provide financial support to any other party to the agreement that experiences financial difficulties, provided that the conditions laid down in this chapter are satisfied.

Amendment

1. *In order to overcome potential legal impediments to provide financial support within a group of institutions*, Member States shall ensure that a parent institution in a Member State, or a Union parent institution, or a company referred to in points (c) and (d) of Article 1 and its subsidiaries that are institutions or financial institutions covered by the supervision of the parent undertaking, may enter into an agreement to provide financial support to any other party to the agreement that experiences financial difficulties, provided that the conditions laid down in this chapter are satisfied. ***The provisions in this Chapter shall not restrict the operation of centralised funding within a group of institutions in normal circumstances.***

Amendment 739
Pablo Zalba Bidegain

Proposal for a directive
Article 16 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

A group financial support agreement shall not constitute a prerequisite:
(a) to provide group financial support to any group entity that experiences financial difficulties if the institution

decides to do so, on a case-by-case basis and according to the group policies if it does not represent a risk for the whole group.

(b) to operate in a Member State or third country, even if requested by their competent authorities.

Or. en

Amendment 740

Diogo Feio

Proposal for a directive

Article 16 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The agreements referred to in paragraph 1 are optional between institutions of the group, and, in case of existence, they should be kept strictly confidential, having the institutions the right to decide whether it is of their interest to participate in these arrangements.

Or. en

Amendment 741

Pablo Zalba Bidegain

Proposal for a directive

Article 16 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Where in accordance with the terms of the agreement, a subsidiary agrees to provide financial support to the parent undertaking so that the parent undertaking in turn can provide this financial support to another subsidiary that experiences financial difficulties, the

agreement shall include a reciprocal agreement by the subsidiary that experiences financial difficulties to provide financial support to the parent undertaking to reimburse the original subsidiary that provided the financial support.

Or. en

Amendment 742

Elisa Ferreira

Proposal for a directive

Article 16 – paragraph 5

Text proposed by the Commission

5. The agreement may only be concluded if, at the time the proposed agreement is made, in the opinion of the **supervisory** authority, none of the parties is in breach of, or likely to be in breach of, any requirement of Directive 2006/48/EC relating to capital or liquidity or is at risk of insolvency.

Amendment

5. The agreement may only be concluded if, at the time the proposed agreement is made, in the opinion of the **relevant competent** authority, none of the parties is in breach of, or likely to be in breach of, any requirement of Directive 2006/48/EC relating to capital or liquidity or is at risk of insolvency.

Or. en

Amendment 743

Jean-Paul Gauzès

Proposal for a directive

Article 16 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. The conditions in this Article are without prejudice to, and shall not affect, the entry into and the maintenance of intra-group agreements in the normal course of business where such agreements are lawful under the national law of a Member State.

Amendment 744
Pablo Zalba Bidegain

Proposal for a directive
Article 16 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. Financial transactions that are part of the group's day-to-day business operations are excluded from the group financial support framework.

Or. en

Amendment 745
Gianni Pittella

Proposal for a directive
Article 16 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. The large exposure limits provided in article 384 of EU Regulation of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms do not apply to intra-group financial support transactions that are put in place in accordance with the provisions of this Chapter. Member States shall remove any legal and practical impediment to the performance of such transactions.

Or. en

Amendment 746
Pablo Zalba Bidegain

Proposal for a directive
Article 16 – paragraph 6 b (new)

Text proposed by the Commission

Amendment

6b. Financial transactions that are not part of the Group's day-to-day business operations are excluded from the group financial support framework.

Or. en

Amendment 747
Vicky Ford

Proposal for a directive
Article 17

Text proposed by the Commission

Amendment

Article 17

deleted

Or. en

Amendment 748
Elisa Ferreira

Proposal for a directive
Article 17 – title

Text proposed by the Commission

Amendment

Review of proposed agreement by
supervisors and mediation

Review of proposed agreement by
competent authorities and mediation

Or. en

Amendment 749
Vicky Ford

Proposal for a directive
Article 17 – paragraph 1

Text proposed by the Commission

Amendment

1. The parent undertakings and institutions which are subject to consolidated supervision pursuant to Articles 125 and 126 of Directive 2006/48/EC shall submit to the consolidating supervisor an application for authorisation of any ***proposed*** group financial support agreement. The application shall contain the text of the proposed agreement and identify the group entities that propose to be parties.

1. The parent undertakings and institutions which are subject to consolidated supervision pursuant to Articles 125 and 126 of Directive 2006/48/EC shall submit to the consolidating supervisor an application for authorisation of any group financial support agreement ***proposed pursuant to Article 16***. The application shall contain the text of the proposed agreement and identify the group entities that propose to be parties.

Or. en

Amendment 750

Danuta Maria Hübner

Proposal for a directive

Article 17 – paragraph 2

Text proposed by the Commission

Amendment

2. The consolidating supervisor shall grant the authorisation if the terms of the proposed agreement are consistent with the conditions for financial support set out in Article 19.

deleted

Or. en

Justification

The authorisation should be a result of the joint decision of the involved competent authorities. There is no clear justification why agreement authorisation should precede the final decision which is made pursuant to art. 17(4).

Amendment 751

Elisa Ferreira

Proposal for a directive
Article 17 – paragraph 4

Text proposed by the Commission

4. The competent authorities shall do everything within their power to reach a joint decision on whether the terms of the proposed agreement are consistent with the conditions for financial support set out in Article 19 within four months from the date of receipt of the application by the consolidating supervisor. The joint decision shall be set out in a document containing the fully reasoned decision, which shall be provided to the applicant by the consolidating supervisor.

Amendment

4. The competent authorities shall do everything within their power to reach a joint decision, ***which will take into account the potential impact of the execution of the agreement in all the Member States where the group operates,*** on whether the terms of the proposed agreement are consistent with the conditions for financial support set out in Article 19 within four months from the date of receipt of the application by the consolidating supervisor. The joint decision shall be set out in a document containing the fully reasoned decision, which shall be provided to the applicant by the consolidating supervisor.

Or. en

Amendment 752
Danuta Maria Hübner, Vicky Ford

Proposal for a directive
Article 17 – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

After reaching a joint decision by all interested competent authorities, the consolidating supervisor shall grant the authorisation if the terms of the proposed agreement are consistent with the conditions for financial support set out in Article 19.

Or. en

Justification

The authorisation should be granted after all interested authorities assessed the proposed

agreement and discussed it. The authorisation may be granted by the consolidating supervisor on behalf of other authorities.

Amendment 753

Wolf Klinz

Proposal for a directive

Article 17 – paragraph 5

Text proposed by the Commission

5. In the absence of a joint decision between the competent authorities within **four** months, the consolidating supervisor shall make its own decision on the application. The decision shall be set out in a document containing the full reasoning and shall take into account the views and reservations of the other competent authorities expressed during the **four-month** period. The consolidating supervisor shall notify the decision to the applicant and the other competent authorities.

Amendment

5. In the absence of a joint decision between the competent authorities within **three** months, the consolidating supervisor shall make its own decision on the application. The decision shall be set out in a document containing the full reasoning and shall take into account the views and reservations of the other competent authorities expressed during the **three-month** period. The consolidating supervisor shall notify the decision to the applicant and the other competent authorities.

Or. en

Amendment 754

Danuta Maria Hübner

Proposal for a directive

Article 17 – paragraph 5

Text proposed by the Commission

5. In the absence of a joint decision between the competent authorities within four months, the consolidating supervisor ***shall make its own decision on the application. The decision shall be set out in a document containing the full reasoning and shall take into account the views and reservations of the other competent authorities expressed during***

Amendment

5. In the absence of a joint decision between the competent authorities within four months, the consolidating supervisor ***may refer the matter to EBA in accordance with Article 31 (c) of Regulation (EU) No 1093/2010. If as a result of the mediation process no agreement has been reached by the competent authorities, the proposed***

the four-month period. The consolidating supervisor shall notify the decision to the applicant and the other competent authorities.

agreement shall not be authorised.

Or. en

Justification

In case competent authorities did not reach a joint decision it should be possible to consult the EBA. However, EBA mediation should be non-binding and should not constrain Members States from making their independent decision. In the absence of a joint decision and after unsuccessful mediation process the proposed agreement should not be authorised.

Amendment 755 **Ildikó Gáll-Pelcz**

Proposal for a directive **Article 17 – paragraph 5**

Text proposed by the Commission

5. In the absence of a joint decision between the competent authorities ***within four months, the consolidating supervisor*** shall make ***its*** own decision on the application. The decision shall be set out in a document containing the full reasoning and shall take into account the views and reservations of the other competent authorities expressed during the four-month period. The ***consolidating supervisor*** shall notify ***the decision*** to the applicant and the other competent authorities.

Amendment

5. In the absence of a joint decision between the competent authorities shall make ***their*** own decision on the application, ***in relation to the credit institutions in their jurisdiction***. The decision shall be set out in a document containing the full reasoning and shall take into account the views and reservations of the other competent authorities expressed during the four-month period. The ***competent authorities*** shall notify ***their decisions*** to the applicant and the other competent authorities.

Or. en

Amendment 756 **Śławomir Nitras**

Proposal for a directive **Article 17 – paragraph 5**

Text proposed by the Commission

Amendment

5. In the absence of a joint decision between the competent authorities within four months, the consolidating supervisor shall ***make its own decision on the application. The decision shall be set out in a document containing the full reasoning and shall take into account the views and reservations of the other competent authorities expressed during the four-month period. The consolidating supervisor shall notify the decision to the applicant and the other competent authorities.***

5. In the absence of a joint decision between the competent authorities within four months, the consolidating supervisor shall ***consult EBA at the request of any other authority concerned or on its own initiative. In this case EBA may carry out non-binding mediation in accordance with Article 31(c) of Regulation (EU) No 1093/2010. All the authorities involved shall then defer their decisions pending the conclusions of the non-binding mediation.***

Or. en

Justification

For intra group financial support it is unjustified for the consolidating supervisor to have the power to decide in case there is no joint decision between competent authorities on the terms of the group financial support agreement. Furthermore, when the competent authority responsible for the institution transferring support prohibits or restricts the provision of financial support because the conditions are not met, there should be no possibility to refer this to EBA. If conditions for group financial support are not met, the decision of the competent authority should be final.

Amendment 757
Ildikó Gáll-Pelcz

Proposal for a directive
Article 17 – paragraph 6

Text proposed by the Commission

Amendment

6. If, at the end of the four-month period, any of the competent authorities concerned has referred the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010, the consolidating supervisor shall defer its decision and await any decision that EBA

deleted

may take in accordance with Article 19(3) of that Regulation, and shall take its decision in conformity with the decision of EBA. The four-month period shall be deemed the conciliation period within the meaning of that Regulation. EBA shall take its decision within one month. The matter shall not be referred to EBA after the end of the four-month period or after a joint decision has been reached.

Or. en

Amendment 758

Danuta Maria Hübner, Vicky Ford

Proposal for a directive Article 17 – paragraph 6

Text proposed by the Commission

Amendment

6. If, at the end of the four-month period, any of the competent authorities concerned has referred the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010, the consolidating supervisor shall defer its decision and await any decision that EBA may take in accordance with Article 19(3) of that Regulation, and shall take its decision in conformity with the decision of EBA. The four-month period shall be deemed the conciliation period within the meaning of that Regulation. EBA shall take its decision within one month. The matter shall not be referred to EBA after the end of the four-month period or after a joint decision has been reached. **deleted**

Or. en

Justification

As a consequences of changes in Art. 17 paragraph 5, this part is deleted.

Amendment 759
Wolf Klinz

Proposal for a directive
Article 17 – paragraph 6

Text proposed by the Commission

6. If, at the end of the ***four-month*** period, any of the competent authorities concerned has referred the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010, the consolidating supervisor shall defer its decision and await any decision that EBA may take in accordance with Article 19(3) of that Regulation, and shall take its decision in conformity with the decision of EBA. The ***four-month*** period shall be deemed the conciliation period within the meaning of that Regulation. EBA shall take its decision within one month. 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

6. If, at the end of the ***three-month*** period, any of the competent authorities concerned has referred the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010, the consolidating supervisor shall defer its decision and await any decision that EBA may take in accordance with Article 19(3) of that Regulation, and shall take its decision in conformity with the decision of EBA. The ***three-month*** period shall be deemed the conciliation period within the meaning of that Regulation. EBA shall take its decision within one month. The matter shall not be referred to EBA after the end of the ***three-month*** period or after a joint decision has been reached.

Or. en

Amendment 760
Slawomir Nitras

Proposal for a directive
Article 17 – paragraph 6

Text proposed by the Commission

6. If, ***at the end of the four-month period, any of the competent authorities concerned has referred the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010, the consolidating supervisor shall defer its decision and await any decision that EBA may take in accordance with Article 19(3)***

Amendment

6. If ***as a result of the mediation process no agreement has been reached by the competent authorities within one month, each authority may take its own decisions with respect to institutions in their jurisdiction. Where an authority makes such decisions, it must consider the impact of that action on financial stability***

of that Regulation, and shall take its decision in conformity with the decision of EBA. The four-month period shall be deemed the conciliation period within the meaning of that Regulation. EBA shall take its decision within one month. The matter shall not be referred to EBA after the end of the four-month period or after a joint decision has been reached.

in other Member States.

Or. en

Justification

For intra group financial support it is unjustified for the consolidating supervisor to have the power to decide in case there is no joint decision between competent authorities on the terms of the group financial support agreement. Furthermore, when the competent authority responsible for the institution transferring support prohibits or restricts the provision of financial support because the conditions are not met, there should be no possibility to refer this to EBA. If conditions for group financial support are not met, the decision of the competent authority should be final.

Amendment 761
Gianni Pittella

Proposal for a directive
Article 17 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. Member States shall remove any legal and practical impediment to intra-group financial support transactions that are put in place in accordance with the provisions of this Chapter.

Or. en

Amendment 762
Vicky Ford

Proposal for a directive
Article 18

Text proposed by the Commission

Amendment

Article 18

deleted

Or. en

Amendment 763

Mario Mauro, Alfredo Pallone

Proposal for a directive

Article 18

Text proposed by the Commission

Amendment

Article 18

deleted

Or. en

Amendment 764

Jean-Paul Gauzès

Proposal for a directive

Article 18 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States ***may*** require that any proposed agreement that has been authorised by the competent authorities be submitted for approval to the shareholders meeting of every group entity that proposes to enter into the agreement. In this case, the agreement shall be valid only in respect of those parties whose shareholders' meeting has approved the agreement.

1. Member States ***shall*** require that any proposed agreement that has been authorised by the competent authorities be submitted for approval to the shareholders meeting of every group entity that proposes to enter into the agreement. In this case, the agreement shall be valid only in respect of those parties whose shareholders' meeting has approved the agreement.

Or. en

Amendment 765

Wolf Klinz

Proposal for a directive
Article 18 – paragraph 1

Text proposed by the Commission

1. Member States **may** require that any proposed agreement that has been authorised by the competent authorities be submitted for approval to the shareholders meeting of every group entity that proposes to enter into the agreement. In this case, the agreement shall be valid only in respect of those parties whose shareholders' meeting has approved the agreement.

Amendment

1. Member States **shall** require that any proposed agreement that has been authorised by the competent authorities be submitted for approval to the shareholders meeting of every group entity that proposes to enter into the agreement. In this case, the agreement shall be valid only in respect of those parties whose shareholders' meeting has approved the agreement.

Or. en

Amendment 766
Pablo Zalba Bidegain

Proposal for a directive
Article 18 – paragraph 1

Text proposed by the Commission

1. Member States **may** require that any proposed agreement that has been authorised by the competent authorities be submitted for approval to the shareholders meeting of every group entity that proposes to enter into the agreement. In this case, the agreement shall be valid only in respect of those parties whose shareholders' meeting has approved the agreement.

Amendment

1. Member States **must** require that any proposed agreement that has been authorised by the competent authorities be submitted for approval to the shareholders meeting of every group entity that proposes to enter into the agreement. In this case, the agreement shall be valid only in respect of those parties whose shareholders' meeting has approved the agreement.

Or. en

Amendment 767
Elisa Ferreira

Proposal for a directive
Article 18 – paragraph 1

Text proposed by the Commission

1. Member States may require that any proposed agreement that has been authorised by the competent authorities be submitted for approval to the shareholders meeting of every group entity that proposes to enter into the agreement. In this case, the agreement shall be valid only in respect of those parties whose shareholders' meeting has approved the agreement.

Amendment

1. Member States may require that any proposed agreement that has been authorised by the competent authorities be submitted for approval to the shareholders meeting of every group entity that proposes to enter into the agreement. In this case, the agreement shall be valid only in respect of those parties whose shareholders' meeting has approved the agreement ***and after the new authorisation referred to in the next subparagraph.***

If the agreement that has been authorised by the competent authority is not approved by the shareholders meetings of every group entity which was entering into that agreement, the institutions referred to in Article 17(1) shall submit to the consolidating supervisor an application for authorisation of the agreement as duly amended.

Subparagraphs 1 and 2 of this paragraph shall apply to the new agreement.

Where competent authorities assess that the fact that the initially proposed agreement was not approved by the shareholders meetings of every group entity which was entering into that agreement deems the introduction of changes to the agreement that the institutions have not introduced, the consolidating supervisor shall require the applicant to submit, within two months, a revised proposed agreement for new authorisation.

Subparagraphs 1, 2 and 3 of this paragraph shall apply to the new application and the new agreement.

Or. en

Amendment 768
Pablo Zalba Bidegain

Proposal for a directive
Article 18 – paragraph 2

Text proposed by the Commission

Amendment

2. Where Member States avail themselves of the option provided for in paragraph 1, they shall require that in accordance with the group financial support agreement, the shareholders of every group entity that will be a party to the agreement authorise the respective management body referred to in Article 11 of Directive 2006/48/EC to make a decision that the entity shall provide financial support in accordance with the terms of the agreement and in accordance with the conditions set out in this Chapter. No further approval by the shareholders nor any additional meeting for any specific transaction undertaken in accordance with the agreement shall be required.

deleted

Or. en

Amendment 769
Wolf Klinz

Proposal for a directive
Article 18 – paragraph 2

Text proposed by the Commission

Amendment

2. Where Member States avail themselves of the option provided for in paragraph 1, they shall require that in accordance with the group financial support agreement, the shareholders of every group entity that will be a party to the agreement authorise the respective management body referred to in Article 11 of Directive 2006/48/EC to make a decision that the entity shall provide financial support in accordance with the terms of the agreement and in accordance with the conditions set out in

2. Member States shall require that in accordance with the group financial support agreement, the shareholders of every group entity that will be a party to the agreement authorise the respective management body referred to in Article 11 of Directive 2006/48/EC to make a decision that the entity shall provide financial support in accordance with the terms of the agreement and in accordance with the conditions set out in this Chapter. No further approval by the shareholders

this Chapter. No further approval by the shareholders nor any additional meeting for any specific transaction undertaken in accordance with the agreement shall be required.

nor any additional meeting for any specific transaction undertaken in accordance with the agreement shall be required.

Or. en

Amendment 770
Pablo Zalba Bidegain

Proposal for a directive
Article 18 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The group support agreement must be submitted for approval to the shareholders meeting of every group entity that proposed to enter into the agreement on an annual basis. The agreement shall be valid only in respect of those parties whose shareholders' meeting approve the agreement.

Or. en

Amendment 771
Elisa Ferreira

Proposal for a directive
Article 18 a (new)

Text proposed by the Commission

Amendment

Article 18a

Transmission of the group financial support agreements to resolution authorities

Competent authorities shall transmit to the relevant resolution authorities the group financial support agreements they authorised and any changes thereto.

Amendment 772
Vicky Ford

Proposal for a directive
Article 19

Text proposed by the Commission

Amendment

Article 19

deleted

Or. en

Amendment 773
Pablo Zalba Bidegain

Proposal for a directive
Article 19 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Financial support ***may only be provided in accordance with*** a group financial support agreement if the following conditions are met:

1. Financial support ***within*** a group financial support agreement ***may only be provided*** if the following conditions are met:

Or. en

Amendment 774
Vicky Ford

Proposal for a directive
Article 19 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Financial support may only be provided in accordance with a group financial support agreement if the following conditions are met:

1. Financial support ***pursuant to Article 16*** may only be provided in accordance with a group financial support agreement if the following conditions are met:

Amendment 775
Wolf Klinz

Proposal for a directive
Article 19 – paragraph 1 – point b

Text proposed by the Commission

(b) the provision of financial support has the objective of preserving or restoring the financial stability of the group as a whole;

Amendment

(b) the provision of financial support has the objective of preserving or restoring the financial stability of the group as a whole
or any of the entities of the group;

Or. en

Amendment 776
Wolf Klinz

Proposal for a directive
Article 19 – paragraph 1 – point c

Text proposed by the Commission

(c) the financial support is provided for consideration;

Amendment

deleted

Or. en

Amendment 777
Pablo Zalba Bidegain

Proposal for a directive
Article 19 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) The prudential rules on capital consumption and large exposures apply both for the lender of financial support and the recipient.

Amendment 778
Sharon Bowles

Proposal for a directive
Article 19 – paragraph 2 – subparagraph 1

Text proposed by the Commission

EBA shall develop draft **implementing** technical standards to specify the conditions set out in paragraph 1.

Amendment

EBA shall develop draft **regulatory** technical standards to specify the conditions set out in paragraph 1.

Justification

From a legal perspective, considering the different content of RTS and ITS in 10-15 of the EBA regulation, RTS are the appropriate way of addressing this.

Amendment 779
Sharon Bowles

Proposal for a directive
Article 19 – paragraph 2 – subparagraph 2

Text proposed by the Commission

EBA shall submit those draft **implementing** technical standards to the Commission within twelve months from the date of entry into force of this Directive.

Amendment

EBA shall submit those draft **regulatory** technical standards to the Commission within twelve months from the date of entry into force of this Directive.

Amendment 780
Sharon Bowles

Proposal for a directive
Article 19 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Power is conferred on the Commission to adopt the ***implementing*** technical standards submitted by EBA in accordance with ***Article 15*** of Regulation (EU) No 1093/2010.

Amendment

Power is conferred on the Commission to adopt the ***regulatory*** technical standards submitted by EBA in accordance with ***the procedure laid down in Articles 10 to 14*** of Regulation (EU) No 1093/2010.

Or. en

Amendment 781
Vicky Ford

Proposal for a directive
Article 20

Text proposed by the Commission

Article 20

Decision to provide financial support

The decision to provide group financial support in accordance with the agreement is taken by the management body as referred to in Article 11 of Directive 2006/48/EC of the entity providing financial support. That decision shall be reasoned and shall indicate the objective of the proposed financial support. In particular, the decision shall indicate:

(a) how the financial support preserves or restores the financial stability of the group as a whole;

(b) that the financial support does not exceed the financial capacities of the legal entity providing the financial support;

(c) that the entity providing financial support shall continue to meet the own funds requirements and any requirements imposed pursuant to Article 136(2) of Directive 2006/48/EC.

Amendment

deleted

Or. en

Amendment 782
Wolf Klinz

Proposal for a directive
Article 20 – paragraph 1 – point a

Text proposed by the Commission

(a) how the financial support preserves or restores the financial stability of the group as a whole;

Amendment

(a) how the financial support preserves or restores the financial stability of the group as a whole ***or any of the entities of the group***;

Or. en

Amendment 783
Sharon Bowles

Proposal for a directive
Article 20 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) that the financial support will not distort the single market.

Or. en

Amendment 784
Mario Mauro, Alfredo Pallone

Proposal for a directive
Article 20 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) Member states shall ensure their national laws did not prevent or impede the establishment and maintenance of intra-group support arrangements.

Or. en

Amendment 785
Vicky Ford

Proposal for a directive
Article 21

Text proposed by the Commission

Amendment

Article 21

deleted

Right of opposition of competent authorities

1. Before providing support in accordance with a group financial support agreement, the management body of an entity that intends to provide financial support shall notify its competent authority and EBA. The notification shall include details of the proposed support.

2. Within two days from the date of receipt of a notification, the competent authority may prohibit or restrict the provision of financial support set out in Article 19 if the conditions for group financial support are not met. A decision of the competent authority to prohibit or restrict the financial support shall be reasoned.

3. The competent authority shall immediately inform EBA, the consolidating supervisor and the competent authorities identified in Article 131a of Directive 2006/48/EC, of its decision to prohibit or restrict the financial support.

4. Where the consolidating supervisor or the competent authority responsible for the entity receiving support has objections regarding the decision to prohibit or restrict the financial support, they may refer the matter to EBA and request its assistance in accordance with Article 19 of Regulation 1093/2010. In that case, EBA may act in accordance with the powers conferred on it by that Article. By way of derogation from the time limit

provided for by Article 39, paragraph 1 of Regulation 1093/2010, EBA shall take any decision in accordance with Article 19(3) of Regulation 1093/2010 within 48 hours.

5. If the competent authority does not prohibit or restrict the financial support within the period indicated in paragraph 2, financial support may be provided in accordance with the terms submitted to the competent authority.

Or. en

Amendment 786
Wolf Klinz

Proposal for a directive
Article 21 – paragraph 1

Text proposed by the Commission

1. ***Before*** providing support in accordance with a group financial support agreement, the management body of an entity that intends to provide financial support shall notify its competent authority and ***EBA***. The notification shall include details of the ***proposed*** support.

Amendment

1. ***When*** providing support in accordance with a group financial support agreement, the management body of an entity that intends to provide financial support shall notify its competent authority and, ***where applicable, the consolidated supervisory authority***. The notification shall include details of the ***financial*** support.

Or. en

Amendment 787
Wolf Klinz

Proposal for a directive
Article 21 – paragraph 2

Text proposed by the Commission

2. ***Within two days from the date of receipt of a notification, the competent authority may prohibit or restrict the provision of***

deleted

Amendment

financial support set out in Article 19 if the conditions for group financial support are not met. A decision of the competent authority to prohibit or restrict the financial support shall be reasoned.

Or. en

Amendment 788

Wolf Klinz

Proposal for a directive

Article 21 – paragraph 3

Text proposed by the Commission

Amendment

3. The competent authority shall immediately inform EBA, the consolidating supervisor and the competent authorities identified in Article 131a of Directive 2006/48/EC, of its decision to prohibit or restrict the financial support.

deleted

Or. en

Amendment 789

Elisa Ferreira

Proposal for a directive

Article 21 – paragraph 3

Text proposed by the Commission

Amendment

3. The competent authority shall immediately inform EBA, the consolidating supervisor and the competent authorities identified in Article 131a of Directive 2006/48/EC, of its decision to prohibit or restrict the financial support.

3. The competent authority shall immediately inform EBA, the consolidating supervisor and the competent authorities ***participating in the colleges of supervisors*** identified in Article 131a of Directive 2006/48/EC, of its decision to prohibit or restrict the financial support.

Or. en

Amendment 790
Wolf Klinz

Proposal for a directive
Article 21 – paragraph 4

Text proposed by the Commission

Amendment

4. Where the consolidating supervisor or the competent authority responsible for the entity receiving support has objections regarding the decision to prohibit or restrict the financial support, they may refer the matter to EBA and request its assistance in accordance with Article 19 of Regulation 1093/2010. In that case, EBA may act in accordance with the powers conferred on it by that Article. By way of derogation from the time limit provided for by Article 39, paragraph 1 of Regulation 1093/2010, EBA shall take any decision in accordance with Article 19(3) of Regulation 1093/2010 within 48 hours. **deleted**

Or. en

Amendment 791
Slawomir Nitras

Proposal for a directive
Article 21 – paragraph 4

Text proposed by the Commission

Amendment

4. Where the consolidating supervisor or the competent authority responsible for the entity receiving support has objections regarding the decision to prohibit or restrict the financial support, they may refer the matter to EBA and request its assistance in accordance with Article 19 of Regulation 1093/2010. In that case, EBA may act in accordance with the **deleted**

powers conferred on it by that Article. By way of derogation from the time limit provided for by Article 39, paragraph 1 of Regulation 1093/2010, EBA shall take any decision in accordance with Article 19(3) of Regulation 1093/2010 within 48 hours.

Or. en

Amendment 792

Danuta Maria Hübner, Vicky Ford

Proposal for a directive Article 21 – paragraph 4

Text proposed by the Commission

Amendment

4. Where the consolidating supervisor or the competent authority responsible for the entity receiving support has objections regarding the decision to prohibit or restrict the financial support, they may refer the matter to EBA and request its assistance in accordance with Article 19 of Regulation 1093/2010. In that case, EBA may act in accordance with the powers conferred on it by that Article. By way of derogation from the time limit provided for by Article 39, paragraph 1 of Regulation 1093/2010, EBA shall take any decision in accordance with Article 19(3) of Regulation 1093/2010 within 48 hours.

deleted

Or. en

Justification

If the competent authority of the entity providing support states that the conditions for group support are not met and its provision might endanger solvency or liquidity of the transferor and so create a threat to financial stability, there should be no further possibility to challenge this decision and refer the matter to EBA. EBA could not differ from the decision taken by the authority prohibiting or restricting the support. Given potential fiscal consequences of

providing support, this Member State shall have the final say. Other early intervention measures should be applied.

Amendment 793

Elisa Ferreira

Proposal for a directive

Article 21 – paragraph 4

Text proposed by the Commission

4. Where the consolidating supervisor or the competent authority responsible for the entity receiving support has objections regarding the decision to prohibit or restrict the financial support, they may refer the matter to EBA and request its assistance in accordance with Article 19 of Regulation 1093/2010. In that case, EBA may act in accordance with the powers conferred on it by that Article. By way of derogation from the time limit provided for by Article 39, paragraph 1 of Regulation 1093/2010, EBA shall take any decision in accordance with Article 19(3) of Regulation 1093/2010 within **48 hours**.

Amendment

4. Where the consolidating supervisor or the competent authority responsible for the entity receiving support has objections regarding the decision to prohibit or restrict the financial support, they may, **within two days**, refer the matter to EBA and request its assistance in accordance with Article 19 of Regulation 1093/2010. In that case, EBA may act in accordance with the powers conferred on it by that Article. By way of derogation from the time limit provided for by Article 39, paragraph 1 of Regulation 1093/2010, EBA shall take any decision in accordance with Article 19(3) of Regulation 1093/2010 within **two days**.

Or. en

Amendment 794

Wolf Klinz

Proposal for a directive

Article 21 – paragraph 5

Text proposed by the Commission

5. If the competent authority does not prohibit or restrict the financial support within the period indicated in paragraph 2, financial support may be provided in accordance with the terms submitted to the competent authority.

Amendment

deleted

Amendment 795
Elisa Ferreira

Proposal for a directive
Article 21 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. The decision to provide financial support which is not prohibited or restricted by the competent authority and the competent authority's decisions to prohibit or restrict the financial support shall be transmitted by competent authorities to the relevant resolution authorities.

Or. en

Amendment 796
Gianni Pittella

Proposal for a directive
Article 21 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Member States shall ensure that rules under their insolvency regimes or special resolution regimes do not hinder the legal certainty and enforceability of intra-group transactions approved and put in place in accordance with the provisions of this Chapter.

Or. en

Amendment 797
Vicky Ford

Proposal for a directive
Article 22

Text proposed by the Commission

Amendment

Article 22

deleted

Or. en

Amendment 798
Jean-Paul Gauzès

Proposal for a directive
Article 22 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Amendment

Member States shall ensure that institutions that have entered into a group financial support agreement pursuant to Article 16 to make public a description of the agreement and the names of the entities that are party to it and update that information at least annually.

deleted

Or. en

Amendment 799
Wolf Klinz

Proposal for a directive
Article 22 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Amendment

Member States shall ensure that institutions that have entered into a group financial support agreement pursuant to Article 16 to make public a ***description*** of the agreement and the names of the entities that are party to it and update that information at least annually.

Member States shall ensure that institutions that have entered into a group financial support agreement pursuant to Article 16 to make public a ***notice*** of the agreement and the names of the entities that are party to it and update that information at least annually.

Or. en

Amendment 800
Diogo Feio

Proposal for a directive
Article 22 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Member States shall ensure that institutions that have entered into a group financial support agreement pursuant to Article 16 *to make public a description of the agreement and the names of the entities that are party to it and update that information at least annually.*

Amendment

Member States shall ensure that institutions that have entered into a group financial support agreement pursuant to Article 16 *notify supervisory authorities about the existence of such agreements. There should be no public disclosure whatsoever, neither regarding the existence of the agreements, nor its contents, except to supervisory and/or resolution authorities. The confidentiality includes non-disclosure to shareholders, even in the case of listed or otherwise publicly traded companies.*

Or. en

Justification

The disclosure may lead to market speculation and financial engineering, which will be harmful for the institution and for the resolution objectives.

Amendment 801
Jean-Paul Gauzès

Proposal for a directive
Article 22 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Articles 145 to 149 of Directive 2006/48/EC shall apply.

Amendment

deleted

Or. en

Amendment 802
Jean-Paul Gauzès

Proposal for a directive
Article 22 – paragraph 4

Text proposed by the Commission

Amendment

4. EBA shall develop draft regulatory technical standards to specify the form and content of the description provided for in paragraph 1. EBA shall submit those draft regulatory technical standards to the Commission within twelve months from the date of entry into force of this Directive. ***deleted***

Or. en

Amendment 803
Jean-Paul Gauzès

Proposal for a directive
Article 22 – paragraph 5

Text proposed by the Commission

Amendment

5. Power is conferred on the Commission to adopt the draft regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010. ***deleted***

Or. en

Amendment 804
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive
Article 22 a (new)

Article 22a

Financial Condition Dashboard

- 1. Member States shall ensure that competent authorities, on the basis of a dashboard comprising a set of key risk indicators related to the financial condition of institutions, establish a ladder of intervention measures of increasing intensity that range from early actions to correct potential financial vulnerabilities, to urgent mechanisms to restore the long term viability of an institution.***
- 2. The dashboard referred to in paragraph 1 shall encompass a set of key risk indicators which are useful in the identification of any deterioration in the financial situation of an institution, including the annual growth rate of total liabilities (excluding capital and reserves), the leverage ratio, the customer deposits-to-total assets ratio; the customer deposits-to-total liabilities ratio; the risk-weighted assets-to-total assets ratio; and the customer loan-to-deposit ratio;***
- 3. The dashboard shall also include at least low, medium and high alert thresholds for each of the indicators and for the overall financial condition of an institution, in order to facilitate the establishment of an escalating ladder of supervisory interventions;***
- 4. EBA shall develop draft regulatory technical standards to specify the indicators that should be included in the dashboard referred to in this Article as well as the indicative thresholds that should be related to these indicators as well as the general methodology for combining the indicators to produce an overall alert level.***

EBA shall submit those draft regulatory

technical standards to the Commission within twelve months from the date of entry into force of this Directive.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010 and Articles 10 to 14 of Regulation (EU) No 1095/2010.

Or. en

Amendment 805
Wolf Klinz

Proposal for a directive
Article 23 – paragraph 1 – introductory part

Text proposed by the Commission

1. Where an institution ***does not meet or*** is likely to breach the requirements of Directive 2006/48/EC, Member States shall ensure that competent authorities, have at their disposal, in addition to the measures referred to in Article 136 of Directive 2006/48/EC where applicable, in particular, the following measures:

Amendment

1. Where an institution is likely to breach the requirements of Directive 2006/48/EC ***regarding either capital or liquidity***, Member States shall ensure that competent authorities, have at their disposal, in addition to the measures referred to in Article 136 of Directive 2006/48/EC where applicable, in particular, the following measures:

Or. en

Amendment 806
Sari Essayah

Proposal for a directive
Article 23 – paragraph 1 – introductory part

Text proposed by the Commission

1. Where an institution does not meet or is likely to breach the requirements ***of Directive 2006/48/EC***, Member States

Amendment

1. Where an institution does not meet or is likely to breach the ***minimum own funds*** requirements ***according to Article 87 (1) of***

shall ensure that competent authorities, have at their disposal, in addition to the measures referred to in Article 136 of Directive 2006/48/EC where applicable, in particular, the following measures:

Regulation (EU) No .../201x of the European Parliament and of the Council of ... [on prudential requirements for credit institutions and investment firms], Member States shall ensure that competent authorities, have at their disposal, in addition to the measures referred to in Article 136 of Directive 2006/48/EC where applicable, in particular, the following measures:

Or. en

Justification

To clarify that the different buffers stipulated in CRR/CRD IV can be used without triggering an early intervention measure. The extent of breaches under the CRR/CRD IV which may lead to intervention are too vague to be applicable in an early intervention phase. Some of the requirements in the CRD IV are minimum requirements, i.e. individual Member States may set their own requirements and might use different early intervention triggers, which would not provide a level playing field.

Amendment 807 **Arlene McCarthy**

Proposal for a directive **Article 23 – paragraph 1 – introductory part**

Text proposed by the Commission

1. Where an institution does not meet or is likely to breach the requirements of Directive 2006/48/EC, Member States shall ensure that competent authorities, have at their disposal, in addition to the measures referred to in Article 136 of Directive 2006/48/EC where applicable, in particular, the following measures:

Amendment

1. Member States shall ensure that competent authorities, , have at their disposal, in addition to the measures referred to in Article 136 of Directive 2006/48/EC where applicable, in particular, the following measures:

Or. en

Justification

It is important for supervisors have all tools necessary for early intervention to enable a firm

to recover where possible. It should therefore be made clear that authorities may apply relevant measures whenever judged necessary to address risks of failure.

Amendment 808

Olle Schmidt

Proposal for a directive

Article 23 – paragraph 1 – introductory part

Text proposed by the Commission

1. Where an institution *does not meet or is likely to breach the requirements of Directive 2006/48/EC, Member States shall ensure that competent authorities, have at their disposal, in addition to the measures referred to in Article 136 of Directive 2006/48/EC where applicable, in particular, the following measures:*

Amendment

1. Where an institution *is likely to breach any of the following:*

i) a Common Equity Tier 1 ratio of 5.75%

ii) a Tier 1 ratio of 7,25%

iii) an own funds ratio of 9,25%

Member States shall ensure that competent authorities, have at their disposal, in addition to the measures referred to in Article 136 of Directive 2006/48/EC where applicable, in particular, the following measures:

Or. en

Justification

The trigger point for early intervention should be high, clearly defined and tied to a harmonised capital level under CRR/CRD 4. The trigger should relate to the Capital Conservation Buffer. A reasonable level for a competent authority to consider early intervention should be the ‘mid-point’ of the buffer i.e. at a CET1 level of 5.75%. The proposed ratios for Tier 1 and own funds are the equivalent of this CET1 level.

Amendment 809

Vicky Ford

Proposal for a directive

Article 23 – paragraph 1 – introductory part

Text proposed by the Commission

1. Where an institution does not meet or is likely to breach the requirements of Directive 2006/48/EC, Member States shall ensure that competent authorities, , have at their disposal, in addition to the measures referred to in Article 136 of Directive 2006/48/EC where applicable, in particular, the following measures:

Amendment

1. Where ***a competent authority judges that*** an institution does not meet or is likely to breach the requirements of Directive 2006/48/EC, Member States shall ensure that competent authorities have at their disposal, in addition to the measures referred to in Article 136 of Directive 2006/48/EC where applicable, in particular, the following measures:

Or. en

Justification

Minor change to affirm that it is the competent authorities who make the judgement as to whether they consider that a firm may be at risk of breaching its requirements and therefore action is required.

Amendment 810

Gianni Pittella

Proposal for a directive

Article 23 – paragraph 1 – introductory part

Text proposed by the Commission

1. Where an institution does not meet ***or is likely to breach the requirements of Directive 2006/48/EC, Member States shall ensure that competent authorities, have at their disposal, in addition to the measures*** referred to in ***Article 136 of Directive 2006/48/EC where applicable, in particular,*** the following measures:

Amendment

1. Where an institution does not meet ***certain predetermined capital levels, supervisors must act to restore adequate capitalization under a prompt corrective action framework. Capital levels are measured by the ratio of regulatory capital to total assets and by market-based capital indicators, calculated on the basis of the EBA technical standards*** referred to in ***paragraph 2. EBA shall also identify different capital zones corresponding to different capital levels.***

Corrective measures by supervisors under prompt corrective action shall become

more intrusive as the capital position deteriorates. Supervisory powers shall include the following measures:

Or. en

Amendment 811
Sharon Bowles

Proposal for a directive
Article 23 – paragraph 1 – introductory part

Text proposed by the Commission

1. Where an institution does not meet or is likely to breach the requirements of Directive 2006/48/EC, Member States shall ensure that competent authorities, , have at their disposal, in addition to the measures referred to in Article 136 of Directive 2006/48/EC where applicable, in particular, the following measures:

Amendment

1. Where an institution does not meet or is likely to breach the requirements of Directive 2006/48/EC, *and in particular CET1 including any systemic or SIFI buffers and liquidity requirements*, Member States shall ensure that competent authorities, have at their disposal, in addition to the measures referred to in Article 136 of Directive 2006/48/EC where applicable, in particular, the following measures:

Or. en

Amendment 812
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive
Article 23 – paragraph 1 – introductory part

Text proposed by the Commission

1. Where an institution does not meet or is likely to breach *the* requirements *of Directive 2006/48/EC*, Member States shall ensure that competent authorities, , have at their disposal, in addition to the measures referred to in Article 136 of Directive 2006/48/EC where applicable, in

Amendment

1. Where an institution does not meet or is likely to breach *[CRD MCR] including inter alia own funds* requirements *provided for in Article 87(1) of Regulation (EU) No .../2012 of the European Parliament and of the Council of ... [on prudential requirements for credit*

particular, the following measures:

institutions and investment firms] plus 1,5% or its financial condition is deemed to be seriously imperilled according to the dashboard of indicators referred to in Article 22a (new), Member States shall ensure that competent authorities have at their disposal, in addition to the measures referred to in Article 136 of Directive 2006/48/EC where applicable, in particular, the following measures:

Or. en

Amendment 813
Nils Torvalds, Olle Schmidt

Proposal for a directive
Article 23 – paragraph 1 – introductory part

Text proposed by the Commission

1. Where an institution does not meet or is likely to breach the requirements *of Directive 2006/48/EC*, Member States shall ensure that competent authorities, have at their disposal, in addition to the measures referred to in Article 136 of Directive 2006/48/EC where applicable, in particular, the following measures:

Amendment

1. Where an institution does not meet or is likely to breach the *minimum own funds* requirements *according to Article 87 (1) of Regulation (EU) No .../201x of the European Parliament and of the Council of ... [on prudential requirements for credit institutions and investment firms]*, Member States shall ensure that competent authorities, , have at their disposal, in addition to the measures referred to in Article 136 of Directive 2006/48/EC where applicable, in particular, the following measures:

Or. en

Amendment 814
Diogo Feio

Proposal for a directive
Article 23 – paragraph 1 – point a

Text proposed by the Commission

(a) require the management of the institution to implement one or more of the arrangements and measures set out in the recovery plan;

Amendment

(a) require the management of the institution to implement one or more of the arrangements and measures set out in the recovery plan, ***or to update such recovery plan when the circumstances that led to the Early Intervention are different from the assumptions set out in the initial recovery plan;***

Or. en

Amendment 815
Gianni Pittella

Proposal for a directive
Article 23 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) require recapitalization;
(ab) suspend dividends distribution;
(ac) restrict assets growth;
(ad) dispose of assets;
(ae) impose reorganization measures;
(af) impose liquidation when the institution fails to restore adequate capitalization;

Or. en

Amendment 816
Diogo Feio

Proposal for a directive
Article 23 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) require the management of the

(b) upon verification of different

institution to examine the situation, identify measures to overcome any problems identified and draw up **an action program** to overcome those problems and a timetable for its implementation;

assumptions, require the management of the institution to examine the situation, identify measures to overcome any problems identified and draw up **a new recovery plan** to overcome those problems and a timetable for its implementation;

Or. en

Amendment 817
Elisa Ferreira

Proposal for a directive
Article 23 – paragraph 1 – point b

Text proposed by the Commission

(b) require the management of the institution to examine the situation, identify measures to overcome any problems identified and draw up an action program to overcome those problems and a timetable for its implementation;

Amendment

(b) **where necessary beyond the content of the recovery plan**, require the management of the institution to examine the situation, identify measures to overcome any problems identified and draw up an action program to overcome those problems and a timetable for its implementation;

Or. en

Amendment 818
Elisa Ferreira

Proposal for a directive
Article 23 – paragraph 1 – point c

Text proposed by the Commission

(c) require the management of the institution to convene, or if the management fails to comply with this requirement convene directly, the shareholders meeting of the institution, propose the agenda and the adoption of certain decisions;

Amendment

(c) require the management of the institution to convene, or if the management fails to comply with this requirement convene directly, the shareholders meeting of the institution, propose the agenda and the adoption of certain decisions **according to the recovery plan or to the action programme referred to in point (b), or, where necessary, other**

decisions;

Or. en

Amendment 819

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a directive

Article 23 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) require the management of the institution to provide minutes of the management board meetings;

Or. en

Amendment 820

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a directive

Article 23 – paragraph 1 – point c b (new)

Text proposed by the Commission

Amendment

(cb) participate in meetings of the management board of the institution;

Or. en

Amendment 821

Diogo Feio

Proposal for a directive

Article 23 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) require the management of the

(d) replace the senior management of the

institution ***to remove*** and replace one or more board members ***or managing directors*** if these persons are found unfit to perform their duties pursuant to Article 11 of Directive 2006/48/EC;

institution and replace one or more board members if these persons are found unfit to perform their duties pursuant to Article 11 of Directive 2006/48/EC, ***or in cases of fraud or of proven bad management***;

Or. en

Justification

In line with proposed AMs to recital 29 and 46. The replacement should not be automatic but instead depend on the factors linked to the circumstances that led to the situation.

Amendment 822

Elisa Ferreira

Proposal for a directive

Article 23 – paragraph 1 – point d

Text proposed by the Commission

(d) require the management of the institution to remove and replace one or more board members or managing directors if these persons are found unfit to perform their duties pursuant to Article 11 of Directive 2006/48/EC;

Amendment

(d) require the management of the institution to remove and replace one or more board members or managing directors if these persons are found unfit to perform their duties pursuant to Article 11 of Directive 2006/48/EC, ***or in cases of fraud or proven bad management***;

Or. en

Amendment 823

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a directive

Article 23 – paragraph 1 – point d

Text proposed by the Commission

(d) require the management of the institution to remove and replace one or more board members or managing

Amendment

(d) require the management of the institution to remove and replace one or more board members or managing

directors if these persons are found unfit to perform their duties pursuant to Article 11 of Directive 2006/48/EC;

directors *after informing the shareholders*, if these persons are found unfit to perform their duties pursuant to Article 11 of Directive 2006/48/EC;

Or. en

Amendment 824
Diogo Feio

Proposal for a directive
Article 23 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) require the management of the institution to draw up a plan for negotiation on restructuring of debt with some or all of its creditors;

deleted

Or. en

Amendment 825
Olle Schmidt

Proposal for a directive
Article 23 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) require the management of the institution to draw up a plan for negotiation on restructuring of debt with some or all of its creditors;

(e) require the management of the institution to draw up a plan for negotiation on restructuring of debt with some or all of its creditors *to use if strictly necessary as the bank approaches the point of resolution*;

Or. en

Justification

This is a far reaching measure that should only be used if considered absolutely necessary.

Amendment 826
Elisa Ferreira

Proposal for a directive
Article 23 – paragraph 1 – point e

Text proposed by the Commission

(e) require the management of the institution to draw up a plan for negotiation on restructuring of debt with some or all of its creditors;

Amendment

(e) require the management of the institution to draw up a plan for negotiation on restructuring of debt with some or all of its creditors, ***according to the recovery plan***;

Or. en

Amendment 827
Diogo Feio

Proposal for a directive
Article 23 – paragraph 1 – point f

Text proposed by the Commission

(f) acquire, including through on-site inspections, all the information necessary in order to prepare for the resolution of the institution, including carrying out an evaluation of the assets and liabilities of the institution;

Amendment

deleted

Or. en

Amendment 828
Olle Schmidt

Proposal for a directive
Article 23 – paragraph 1 – point f

Text proposed by the Commission

(f) acquire, including through on-site

Amendment

deleted

inspections, all the information necessary in order to prepare for the resolution of the institution, including carrying out an evaluation of the assets and liabilities of the institution;

Or. en

Justification

Moved to new paragraph, Article 23 – paragraph 1 a (new).

Amendment 829

Elisa Ferreira

Proposal for a directive

Article 23 – paragraph 1 – point f

Text proposed by the Commission

(f) acquire, including through on-site inspections, all the information necessary in order to prepare for the resolution of the institution, including carrying out an evaluation of the assets and liabilities of the institution;

Amendment

(f) acquire, including through on-site inspections, all the information necessary ***to update the resolution plan*** in order to prepare for the ***eventual*** resolution of the institution, including carrying out an evaluation of the assets and liabilities of the institution ***according to Article 30.***

Or. en

Amendment 830

Diogo Feio

Proposal for a directive

Article 23 – paragraph 1 – point g

Text proposed by the Commission

(g) contact potential purchasers in order to prepare for the resolution of the institution, subject to the conditions laid down in article 33(2) and the confidentiality provisions laid down in

Amendment

deleted

Article 77.

Or. en

Amendment 831

Olle Schmidt

Proposal for a directive

Article 23 – paragraph 1 – point g

Text proposed by the Commission

Amendment

(g) contact potential purchasers in order to prepare for the resolution of the institution, subject to the conditions laid down in article 33(2) and the confidentiality provisions laid down in Article 77. deleted

Or. en

Justification

Moved to new paragraph, Article 23 – paragraph 1 a (new).

Amendment 832

Elisa Ferreira

Proposal for a directive

Article 23 – paragraph 1 – point g

Text proposed by the Commission

Amendment

(g) contact potential purchasers in order to prepare for the resolution of the institution, subject to the conditions laid down in article 33(2) and the confidentiality provisions laid down in Article 77. deleted

Or. en

Amendment 833
Gianni Pittella

Proposal for a directive
Article 23 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Member States must endow national resolution authorities with the same administrative resolution powers.

Or. en

Amendment 834
Elisa Ferreira

Proposal for a directive
Article 23 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall ensure that the competent authority draws up a Code of Conduct on the assessment whether if the institution is likely to breach the requirements of Directive 2006/48/EC.

Or. en

Amendment 835
Olle Schmidt

Proposal for a directive
Article 23 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. If the institution is in breach of the requirements of Directive 2006/48/EC and there is no reasonable prospect that early intervention measures or alternative private sector or supervisory action would prevent the institution meeting the

conditions for resolution, and the conditions in paragraph 1 are met, the resolution authority shall have the power to:

(a) acquire, including through on-site inspections, all the information necessary in order to prepare for the resolution of the institution, including carrying out an evaluation of the assets and liabilities of the institution;

(b) contact potential purchasers in order to prepare for the resolution of the institution, subject to the conditions laid down in article 33(2) and the confidentiality provisions laid down in Article 76.

Or. en

Justification

(f) and (g) blur the division of responsibility between the supervisor and resolution authority. The amendment clarifies that the resolution authority is responsible for resolution measures and removes the possibility of any potential conflict of interest for the supervisor

Amendment 836
Elisa Ferreira

Proposal for a directive
Article 23 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. EBA shall develop draft implementing technical standards for specifying the content of the Code of Conduct referred to in the previous paragraph.

EBA shall submit those draft implementing technical standards to the Commission within twelve months from the date of entry into force of this Directive.

Power is conferred on the Commission to adopt the implementing technical

standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.

Or. en

Amendment 837
Vicky Ford

Proposal for a directive
Article 23 – paragraph 2

Text proposed by the Commission

Amendment

2. EBA shall develop draft implementing technical standards in order to ensure consistent application of the measures provided for in paragraph 1 of this Article. **deleted**

EBA shall submit those draft implementing technical standards to the Commission within twelve months from the date of entry into force of this Directive.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.

Or. en

Justification

These measures are related to the supervisory tools as per Article 136 of Directive 2006/48/EC. This will be replaced by Article 99 of CRD IV, which doesn't include implementing technical standards. This change is therefore to ensure consistency.

Amendment 838
Sharon Bowles

Proposal for a directive

Article 23 – paragraph 2 – subparagraph 1

Text proposed by the Commission

EBA shall develop draft **implementing** technical standards in order to ensure consistent application of the measures provided for in paragraph 1 of this Article.

Amendment

EBA shall develop draft **regulatory** technical standards in order to ensure consistent application of the measures provided for in paragraph 1 of this Article **and Article 64 of CRR [insert regulation XX]**.

Or. en

Amendment 839

Slawomir Nitras

Proposal for a directive

Article 23 – paragraph 2 – subparagraph 1

Text proposed by the Commission

EBA shall develop draft implementing **technical standards** in order to ensure consistent application of the measures provided for in paragraph 1 of this Article.

Amendment

EBA shall develop draft implementing **guidelines** in order to ensure consistent application of the measures provided for in paragraph 1 of this Article.

Or. en

Amendment 840

Sharon Bowles

Proposal for a directive

Article 23 – paragraph 2 – subparagraph 2

Text proposed by the Commission

EBA shall submit those draft **implementing** technical standards to the Commission within twelve months from the date of entry into force of this Directive.

Amendment

EBA shall submit those draft **regulatory** technical standards to the Commission within twelve months from the date of entry into force of this Directive.

Or. en

Amendment 841
Śławomir Nitras

Proposal for a directive
Article 23 – paragraph 2 – subparagraph 2

Text proposed by the Commission

EBA shall submit those draft implementing ***technical standards*** to the Commission within twelve months from the date of entry into force of this Directive.

Amendment

EBA shall submit those draft implementing ***guidelines*** to the Commission within twelve months from the date of entry into force of this Directive.

Or. en

Amendment 842
Śławomir Nitras

Proposal for a directive
Article 23 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.

Amendment

deleted

Or. en

Amendment 843
Sharon Bowles

Proposal for a directive
Article 23 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Power is conferred on the Commission to adopt the ***implementing*** technical standards referred to in the first

Amendment

Power is conferred on the Commission to adopt the ***regulatory*** technical standards referred to in the first subparagraph in

subparagraph in accordance with Article **15**
of Regulation (EU) No 1093/2010.

accordance with Article ***the procedure laid
down in Articles 10 to 14*** of Regulation
(EU) No 1093/2010.

Or. en

Amendment 844
Olle Ludvigsson

Proposal for a directive
Article 23 – paragraph 2 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

***The application of measure (d) in
paragraph 1 of this Article shall be
without prejudice to provisions on the
representation of employees in company
boards as provided for by national
legislation or practice.***

Or. en

Justification

Since employees are key stakeholders in a recovery process, it should be made clear that the provisions of this directive do not weaken or obstruct national rules on employee representation.

Amendment 845
Olle Schmidt

Proposal for a directive
Article 23 a (new)

Text proposed by the Commission

Amendment

Article 23a

***In accordance with Article 6(2) of
Directive 2003/6/EC, competent
authorities may delay public disclosure of
the application of early intervention
measures pursuant to this article that***

would otherwise be required in accordance with Article 6(1) of Directive 2003/6/EC, where they consider it necessary and proportionate to ensure the effectiveness of the recovery plan and early intervention measures. Member States shall ensure that similar delays can be applied to any disclosures required under relevant listing rules.

Or. en

Justification

Competent authorities should have the tools to ensure that recovery plans and early intervention measures are effective. They should be able to delay public disclosure requirements and avoid the unintended consequence of hastening resolution.

Amendment 846
Olle Schmidt

Proposal for a directive
Article 24

Text proposed by the Commission

Amendment

Article 24

deleted

Or. en

Justification

The possibility to appoint a special manager already in the early intervention phase is questionable from a proprietary point of view and this provision should therefore be moved to the resolution phase. See proposal for new article 57a. There needs to be an unambiguous distinction between the recovery face and resolution.

Amendment 847
Wolf Klinz

Proposal for a directive
Article 24

Text proposed by the Commission

Amendment

Article 24

deleted

Or. en

Amendment 848
Jean-Paul Gauzès

Proposal for a directive
Article 24 – paragraph 1

Text proposed by the Commission

Amendment

1. Where there is a significant deterioration in the financial situation of an institution or where there are serious violations of law, regulations or bylaws or serious administrative irregularities, and other measures ***taken in accordance with*** Article 23 are not sufficient to reverse that deterioration, Member States shall ensure that competent authorities may appoint a special manager to replace the management of the institution. Competent authorities shall make public the appointment of a special manager. Member States shall further ensure that the special manager has the qualifications, ability and knowledge required to carry out his or her functions.

1. Where there is a significant ***or foreseeable imminent significant*** deterioration in the financial situation of an institution or where there are serious violations of law, regulations or bylaws or serious administrative irregularities, ***or where the management of the institution can no longer be carried out in normal conditions,*** and other measures ***laid down in*** Article 23 are ***judged*** not sufficient to reverse that deterioration, Member States shall ensure that competent authorities may appoint a special manager to replace the management of the institution. Competent authorities shall make public the appointment of a special manager. Member States shall further ensure that the special manager has the qualifications, ability and knowledge required to carry out his or her functions.

Or. en

Amendment 849
Gianni Pittella

Proposal for a directive
Article 24 – paragraph 1

Text proposed by the Commission

1. Where there is a significant deterioration in the financial situation of an institution or where there are serious violations of law, regulations or bylaws or serious administrative irregularities, and other measures ***taken in accordance with*** Article 23 are not sufficient to reverse that deterioration, Member States shall ensure that competent authorities may appoint ***a*** special ***manager*** to replace the management of the institution. Competent authorities shall make public the appointment of a special manager. Member States shall further ensure that the special manager has the qualifications, ability and knowledge required to carry out his or her functions.

Amendment

1. Where there is a significant deterioration in the financial situation of an institution or where there are serious violations of law, regulations or bylaws or serious administrative irregularities, and other measures ***envisaged in*** Article 23 are not sufficient to reverse that deterioration, Member States shall ensure that competent authorities may appoint ***one or more*** special ***managers*** to replace the management of the institution. Competent authorities shall make public the appointment of a special manager. Member States shall further ensure that the special manager has the qualifications, ability and knowledge required to carry out his or her functions.

Or. en

Amendment 850

Elisa Ferreira

Proposal for a directive

Article 24 – paragraph 1

Text proposed by the Commission

1. Where there is a significant deterioration in the financial situation of an institution or where there are serious violations of law, regulations or bylaws or serious administrative irregularities, and other measures taken in accordance with Article 23 are not sufficient to reverse that deterioration, Member States shall ensure that competent authorities may appoint a special manager to replace the management of the institution. Competent authorities shall make public the appointment of a special manager. Member States shall further ensure that the special manager has the qualifications, ability and knowledge

Amendment

1. Where there is a significant deterioration in the financial situation of an institution or where there are serious violations of law, regulations or bylaws or serious administrative irregularities, and other measures taken in accordance with Article 23 are not sufficient to reverse that deterioration, ***in such terms that, if no action is taken, the resolution authority would in the near future have to determine, according to Article 27, that the institution is failing or likely to fail,*** Member States shall ensure that competent authorities may, ***in consultation with resolution authorities,*** appoint a special

required to carry out his or her functions.

manager to replace the management of the institution. Competent authorities shall make public the appointment of a special manager. Member States shall further ensure that the special manager has the qualifications, ability and knowledge required to carry out his or her functions.

Or. en

Amendment 851
Leonardo Domenici

Proposal for a directive
Article 24 – paragraph 1

Text proposed by the Commission

1. Where there is a significant deterioration in the financial situation of an institution or where there are serious violations of law, regulations or bylaws or serious administrative irregularities, and other measures ***taken in accordance with*** Article 23 are not sufficient to reverse that deterioration, Member States shall ensure that competent authorities may appoint ***a*** special ***manager*** to replace the management of the institution. Competent authorities shall make public the appointment of a special manager. Member States shall further ensure that the special manager has the qualifications, ability and knowledge required to carry out his or her functions.

Amendment

1. Where there is a significant deterioration in the financial situation of an institution or where there are serious violations of law, regulations or bylaws or serious administrative irregularities, and other measures ***envisaged in*** Article 23 are not sufficient to reverse that deterioration, Member States shall ensure that competent authorities may appoint ***one or more*** special ***managers*** to replace the management of the institution. Competent authorities shall make public the appointment of a special manager. Member States shall further ensure that the special manager has the qualifications, ability and knowledge required to carry out his or her functions.

Or. en

Justification

The possibility to appoint more than one or more special managers may be appropriate in the case of large and complex institutions.

Amendment 852
Gianni Pittella

Proposal for a directive
Article 24 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The functions of the general meeting shall be suspended by effect of the appointment of a special manager except as provided for in paragraph 3 of this Article.

Or. en

Amendment 853
Leonardo Domenici

Proposal for a directive
Article 24 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The functions of the general meeting shall be suspended by effect of the appointment of a special manager except as provided for in paragraph 3 of this Article.

Or. en

Justification

The role of the shareholders during the special management (SM) requires clarification. To this end a new paragraph has been proposed.

Amendment 854
Gianni Pittella

Proposal for a directive
Article 24 – paragraph 2

Text proposed by the Commission

2. The special manager shall have all the powers of the management of the institution under the statutes of the institution and under national law, including the power to exercise all the administrative functions of the management of the institution. However, the special manager may **only** exercise the power to convene the general meeting of the shareholders of the institution and to set the agenda with the prior consent of the competent authority.

Amendment

2. The special manager shall have all the powers of the management of the institution under the statutes of the institution and under national law, including the power to exercise all the administrative functions of the management of the institution. However, the special manager may exercise the power to convene the general meeting of the shareholders of the institution and to set the agenda **only** with the prior consent of the competent authority.

Or. en

Amendment 855

Diogo Feio

Proposal for a directive

Article 24 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The special manager shall:

(1) Conduct a fair valuation of the company under the terms of Article 24a;

(2) Elaborate a report on the institution's situation based on the valuation conducted under the terms of Article 24a where it:

i. updates the institution's financial situation;

ii. grants an opinion regarding the institution's future viability;

iii. recommends the restructuring of the institution or its entering into resolution;

(3) Submit both options to the competent authorities, for approval;

(4) Upon a decision of restructuring, the special manager shall draw up a

restructuring plan that may include, among other measures, the voluntary renegotiation of debt with some or all of its creditors;

(5) Gather information and take the necessary steps in order to prepare the institution for Resolution, if that is to be the case;

(6) Contact potential purchasers in order to prepare for the resolution of the institution, subject to the conditions laid down in Article 33(2) and the confidentiality provisions laid down in Article 77.

Or. en

Amendment 856

Marisa Matias, Jürgen Klute

Proposal for a directive

Article 24 – paragraph 4

Text proposed by the Commission

4. Competent authorities may ***set limits to the action of a special manager or*** require that certain acts of the special manager be subject to the competent authority's prior consent. The competent authorities may remove the special manager at any time.

Amendment

4. Competent authorities may require that certain acts of the special manager be subject to the competent authority's prior consent. The competent authorities may remove the special manager at any time.

Or. en

Amendment 857

Olle Ludvigsson

Proposal for a directive

Article 24 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. The special manager shall inform and

consult with employees and their representatives. Where applicable, collective agreements, or other arrangements provided for by social partners, shall be respected in this regard.

Or. en

Amendment 858

Krišjānis Kariņš

Proposal for a directive

Article 24 – paragraph 6

Text proposed by the Commission

Amendment

<i>6. Special management shall not last more than one year. This period can be exceptionally renewed if the conditions for appointing a special manager continue to be met. The competent authority shall be responsible for determining whether conditions are appropriate to maintain a special manager and justifying any such decision to shareholders.</i>	<i>deleted</i>
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Or. en

Amendment 859

Marisa Matias, Jürgen Klute

Proposal for a directive

Article 24 – paragraph 7

Text proposed by the Commission

Amendment

<i>7. Subject to the provisions in paragraphs 1 to 6 the appointment of the special manager shall not prejudice the rights of the shareholders or owners provided for in accordance Union or national company law.</i>	<i>deleted</i>
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Amendment 860
Diogo Feio

Proposal for a directive
Article 24 a (new)

Text proposed by the Commission

Amendment

Article 24a

Valuation at Early Intervention

1. Special Management shall ensure that a fair and realistic valuation of the assets and liabilities of the institution is carried out, preferably by an independent entity. The special management shall endorse that valuation. Where an independent valuator is not possible to be endorsed due to the emergency of the situation, special management may carry out this valuation itself.

2. Without prejudice to the Union State aid framework, where applicable, the valuation required by paragraph 1 shall be based on prudent and realistic assumptions, including as to rates of default and severity of losses, and its objective shall be to assess the market value of the assets and liabilities of the institution. However, where the market for a specific asset or liability is not functioning properly, the valuation may reflect the long term economic value of those assets or liabilities.

3. The valuation shall be supplemented by the following information as appearing in the accounting books and records of the institution:

(a) an updated balance sheet and a report on the economic and financial situation of the institution;

(b) a note providing an analysis and an

estimate of the value of the assets;

(c) the list of outstanding liabilities shown in the books and records of the institution, with an indication of the respective credits and priority level under the applicable insolvency law;

(d) the list of assets held by the institution for account of third parties who have ownership rights on those assets.

Or. en

Justification

Early Intervention can be a long period, when taking over the Special Manager needs to do an assessment of the situation and report to authorities (it shall include a valuation of the institution assets and liabilities). During early intervention it will grow clear whether or not there is a need to go into Resolution and whether preparatory steps must be taken. Valuation shall be done before going into Resolution and be kept "on going", trying to assess and accompany the value of less liquid assets and liabilities.

Amendment 861 **Wolf Klinz**

Proposal for a directive **Article 25 – title**

Text proposed by the Commission

Coordination of early intervention measures *and appointment of special manager* in relation to groups

Amendment

Coordination of early intervention measures in relation to groups

Or. en

Amendment 862 **Olle Schmidt**

Proposal for a directive **Article 25 – title**

Text proposed by the Commission

Amendment

Coordination of early intervention measures ***and appointment of special manager*** in relation to groups

Coordination of early intervention measures in relation to groups

Or. en

Justification

Supports the proposal from the Rapporteur. The possibility to appoint a special manager already in the early intervention phase is questionable from a proprietary point of view and this provision should therefore be moved to the resolution phase. See proposal for new article 57a. There needs to be an unambiguous distinction between the recovery face and resolution.

Amendment 863
Wolf Klinz

Proposal for a directive
Article 25 – paragraph 1

Text proposed by the Commission

Amendment

1. Where the conditions for the imposition of requirements under Article 23 of this Directive ***or the appointment of a special manager in accordance with Article 24 of this Directive*** are met in relation to a parent undertaking or an institution subject to consolidated supervision pursuant to Articles 125 and 126 of Directive 2006/48/EC or any of its subsidiaries, the competent authority that intends to take a measure in accordance with ***those Articles*** shall notify other relevant competent authorities within the supervisory college and EBA of its intention.

1. Where the conditions for the imposition of requirements under Article 23 of this Directive are met in relation to a parent undertaking or an institution subject to consolidated supervision pursuant to Articles 125 and 126 of Directive 2006/48/EC or any of its subsidiaries, the competent authority that intends to take a measure in accordance with ***Article 23*** shall notify other relevant competent authorities within the supervisory college and EBA of its intention.

Or. en

Amendment 864
Olle Schmidt

Proposal for a directive
Article 25 – paragraph 1

Text proposed by the Commission

1. Where the conditions for the imposition of requirements under Article 23 of this Directive ***or the appointment of a special manager in accordance with Article 24 of this Directive*** are met in relation to a parent undertaking or an institution subject to consolidated supervision pursuant to Articles 125 and 126 of Directive 2006/48/EC or any of its subsidiaries, the competent authority that intends to take a measure in accordance with ***those Articles*** shall notify other relevant competent authorities within the supervisory college and EBA of its intention.

Amendment

1. Where the conditions for the imposition of requirements under Article 23 of this Directive are met in relation to a parent undertaking or an institution subject to consolidated supervision pursuant to Articles 125 and 126 of Directive 2006/48/EC or any of its subsidiaries, the competent authority that intends to take a measure in accordance with ***that Article*** shall notify other relevant competent authorities within the supervisory college and EBA of its intention.

Or. en

Justification

Supports the proposal from the Rapporteur. The possibility to appoint a special manager already in the early intervention phase is questionable from a proprietary point of view and this provision should therefore be moved to the resolution phase. See proposal for new article 57a. There needs to be an unambiguous distinction between the recovery face and resolution.

Amendment 865
Danuta Maria Hübner

Proposal for a directive
Article 25 – paragraph 1

Text proposed by the Commission

1. Where the conditions for the imposition of requirements under Article 23 of this Directive or the appointment of a special manager in accordance with Article 24 of this Directive are met in relation to a parent undertaking or an institution subject to consolidated supervision pursuant to

Amendment

1. Where the conditions for the imposition of requirements under Article 23 of this Directive or the appointment of a special manager in accordance with Article 24 of this Directive are met in relation to a parent undertaking or an institution subject to consolidated supervision pursuant to

Articles 125 and 126 of Directive 2006/48/EC or any of its subsidiaries, the competent authority that intends to take a measure in accordance with those Articles shall notify other relevant competent authorities within the supervisory college **and EBA** of its intention.

Articles 125 and 126 of Directive 2006/48/EC or any of its subsidiaries, the competent authority that intends to take a measure in accordance with those Articles shall notify other relevant competent authorities within the supervisory college of its intention.

Or. en

Justification

It is not clear why the EBA should be informed. Many of the actions envisaged in Article 23 belong to the spectrum of everyday supervision and thus there is no need to inform the EBA and create an additional burden for that institution connected with managing the information received.

Amendment 866 **Wolf Klinz**

Proposal for a directive **Article 25 – paragraph 2 – subparagraph 1**

Text proposed by the Commission

The consolidating supervisor and the other relevant competent authorities shall consider whether it is necessary to take measures in accordance with Article 23 **or appoint a special manager in accordance with Article 24** in relation to other group entities and whether the coordination of the measures to be taken is desirable. The consolidating supervisor and other relevant authorities shall consider whether any alternative measure would be more likely to restore the viability of the individual entities and preserve the financial soundness of the group as a whole. **Where more than one competent authority intends to appoint a special manager in relation to an entity affiliated to a group, authorities shall consider whether it is more appropriate to appoint the same special manager for all the entities**

Amendment

The consolidating supervisor and the other relevant competent authorities shall consider whether it is necessary to take measures in accordance with Article 23 in relation to other group entities and whether the coordination of the measures to be taken is desirable. The consolidating supervisor and other relevant authorities shall consider whether any alternative measure would be more likely to restore the viability of the individual entities and preserve the financial soundness of the group as a whole.

concerned or for the whole group in order to facilitate solutions redressing the financial soundness of the group as a whole.

Or. en

Amendment 867
Olle Schmidt

Proposal for a directive
Article 25 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The consolidating supervisor and the other relevant competent authorities shall consider whether it is necessary to take measures in accordance with Article 23 ***or appoint a special manager in accordance with Article 24*** in relation to other group entities and whether the coordination of the measures to be taken is desirable. The consolidating supervisor and other relevant authorities shall consider whether any alternative measure would be more likely to restore the viability of the individual entities and preserve the financial soundness of the group as a whole. ***Where more than one competent authority intends to appoint a special manager in relation to an entity affiliated to a group, authorities shall consider whether it is more appropriate to appoint the same special manager for all the entities concerned or for the whole group in order to facilitate solutions redressing the financial soundness of the group as a whole.***

Amendment

The consolidating supervisor and the other relevant competent authorities shall consider whether it is necessary to take measures in accordance with Article 23 in relation to other group entities and whether the coordination of the measures to be taken is desirable. The consolidating supervisor and other relevant authorities shall consider whether any alternative measure would be more likely to restore the viability of the individual entities and preserve the financial soundness of the group as a whole.

Or. en

Justification

Supports the proposal from the Rapporteur. The possibility to appoint a special manager

already in the early intervention phase is questionable from a proprietary point of view and this provision should therefore be moved to the resolution phase. See proposal for new article 57a. There needs to be an unambiguous distinction between the recovery face and resolution.

Amendment 868

Elisa Ferreira

Proposal for a directive

Article 25 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The assessment shall take the form of a joint decision of the consolidating supervisor and the other relevant competent authorities. The joint decision shall be reached within five days from the date of the notification referred to in paragraph 1. The joint decision shall be reasoned and set out in a document, which shall be provided by the consolidating supervisor to the parent undertaking or institution that is subject to consolidated supervision.

Amendment

The assessment shall take the form of a joint decision of the consolidating supervisor and the other relevant competent authorities, ***which will take into account the potential impact of the measure in all the Member States where the group operates***. The joint decision shall be reached within five days from the date of the notification referred to in paragraph 1. The joint decision shall be reasoned and set out in a document, which shall be provided by the consolidating supervisor to the parent undertaking or institution that is subject to consolidated supervision.

Or. en

Amendment 869

Marisa Matias, Jürgen Klute

Proposal for a directive

Article 25 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The assessment shall take the form of a joint decision of the consolidating supervisor and the other relevant competent authorities. The joint decision shall be reached within five days from the date of the notification referred to in

Amendment

The assessment shall take the form of a joint decision of the consolidating supervisor, ***the EBA*** and the other relevant competent authorities. The joint decision shall be reached within five days from the date of the notification referred to in

paragraph 1. The joint decision shall be reasoned and set out in a document, which shall be provided by the consolidating supervisor to the parent undertaking or institution that is subject to consolidated supervision.

paragraph 1. The joint decision shall be reasoned and set out in a document, which shall be provided by the consolidating supervisor to the parent undertaking or institution that is subject to consolidated supervision.

Or. en

Amendment 870
Śławomir Nitras

Proposal for a directive
Article 25 – paragraph 3

Text proposed by the Commission

Amendment

3. EBA may on its own initiative assist the competent authorities in reaching an agreement in accordance with Article 19 of Regulation (EU) No 1093/2010.

deleted

Or. en

Amendment 871
Danuta Maria Hübner

Proposal for a directive
Article 25 – paragraph 3

Text proposed by the Commission

Amendment

3. EBA may on its own initiative assist the competent authorities in reaching an agreement in accordance with **Article 19** of Regulation (EU) No 1093/2010.

3. EBA may on its own initiative assist the competent authorities in reaching an agreement in accordance with **Article 31 (c)** of Regulation (EU) No 1093/2010.

Or. en

Justification

As the next paragraph allows taking individual decisions by national competent authorities, the binding mediation of EBA is not appropriate. If necessary, the EBA may assist authorities

via a non-binding mediation process.

Amendment 872
Krišjānis Kariņš

Proposal for a directive
Article 25 – paragraph 3

Text proposed by the Commission

3. EBA may on its own initiative assist the competent authorities in reaching an agreement in accordance with Article 19 of Regulation (EU) No 1093/2010.

Amendment

3. EBA may on its own initiative assist the competent authorities in reaching an agreement in accordance with Article 19 of Regulation (EU) No 1093/2010. ***The advice given by EBA is not binding.***

Or. en

Amendment 873
Marisa Matias, Jürgen Klute

Proposal for a directive
Article 25 – paragraph 3

Text proposed by the Commission

3. EBA ***may on its own initiative*** assist the competent authorities in reaching an agreement in accordance with Article 19 of Regulation (EU) No 1093/2010.

Amendment

3. EBA ***will*** assist the competent authorities in reaching an agreement in accordance with Article 19 of Regulation (EU) No 1093/2010.

Or. en

Amendment 874
Vicky Ford

Proposal for a directive
Article 25 – paragraph 3

Text proposed by the Commission

3. EBA may ***on its own initiative*** assist the

Amendment

3. EBA may ***at the request of the***

competent authorities in reaching an agreement in accordance with Article 19 of Regulation (EU) No 1093/2010.

consolidating supervisor assist the competent authorities in reaching an agreement in accordance with Article 19 of Regulation (EU) No 1093/2010.

Or. en

Amendment 875
Elisa Ferreira

Proposal for a directive
Article 25 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Before taking their own decisions in accordance with paragraph 4, the competent authorities shall consult EBA. The decision shall consider the advice of EBA and explain any significant deviation from that advice.

Or. en

Amendment 876
Danuta Maria Hübner

Proposal for a directive
Article 25 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Amendment

Where, at the end of the five-day period, any of the competent authorities concerned has referred the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010, the consolidating supervisor and the other competent authorities shall defer their decisions and await any decision that EBA may take in accordance with Article 19(3) of that Regulation, and shall take their decision in conformity with the decision of EBA. The five-day period shall

deleted

be deemed the conciliation period within the meaning of that Regulation. EBA shall take its decision within five days. The matter shall not be referred to EBA after the end of the five-day period or after a joint decision has been reached.

Or. en

Justification

The decision should be made by those authorities that are responsible for the particular entity and the local market. EBA's competences envisaged in the text go too far.

Amendment 877
Śławomir Nitras

Proposal for a directive
Article 25 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Amendment

Where, at the end of the five-day period, any of the competent authorities concerned has referred the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010, the consolidating supervisor and the other competent authorities shall defer their decisions and await any decision that EBA may take in accordance with Article 19(3) of that Regulation, and shall take their decision in conformity with the decision of EBA. The five-day period shall be deemed the conciliation period within the meaning of that Regulation. EBA shall take its decision within five days. The matter shall not be referred to EBA after the end of the five-day period or after a joint decision has been reached.

deleted

Or. en

Amendment 878
Danuta Maria Hübner

Proposal for a directive
Article 25 – paragraph 6

Text proposed by the Commission

Amendment

6. Before taking their own decisions in accordance with paragraph 4, the competent authorities shall consult EBA. The decision shall consider the advice of EBA and explain any significant deviation from that advice. **deleted**

Or. en

Justification

As a consequence of deletion of second subparagraph in Art. 25 paragraph 5, this part is also deleted.

Amendment 879
Elisa Ferreira

Proposal for a directive
Article 25 – paragraph 6

Text proposed by the Commission

Amendment

6. Before taking their own decisions in accordance with paragraph 4, the competent authorities shall consult EBA. The decision shall consider the advice of EBA and explain any significant deviation from that advice. **deleted**

Or. en

Amendment 880
Marisa Matias, Jürgen Klute

Proposal for a directive
Article 26 – paragraph 2 – introductory part

Text proposed by the Commission

2. The resolution objectives referred to in paragraph 1 are:

Amendment

2. The resolution objectives referred to in paragraph 1 are ***the following, with decreasing significance:***

Or. en

Amendment 881
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive
Article 26 – paragraph 2 – point a

Text proposed by the Commission

(a) to ensure the continuity of critical functions;

Amendment

(a) to ensure the continuity of critical functions ***where these cannot be taken over by another institution without incurring unacceptable cost to public funds;***

Or. en

Amendment 882
Marisa Matias, Jürgen Klute

Proposal for a directive
Article 26 – paragraph 2 – point a

Text proposed by the Commission

(a) to ***ensure the continuity of critical functions;***

Amendment

(a) to ***avoid significant adverse effects on financial stability, including by preventing contagion, and maintaining market discipline;***

Or. en

Amendment 883
Andreas Schwab

Proposal for a directive
Article 26 – paragraph 2 – point a

Text proposed by the Commission

(a) to *ensure the continuity of critical* functions;

Amendment

(a) to *temporarily maintain market-relevant* functions;

Or. de

Amendment 884
Sharon Bowles

Proposal for a directive
Article 26 – paragraph 2 – point a

Text proposed by the Commission

(a) to ensure the continuity of critical functions;

Amendment

(a) to ensure the continuity of critical functions *and, as far as possible, continuity of counterparty positions*;

Or. en

Amendment 885
Olle Schmidt

Proposal for a directive
Article 26 – paragraph 2 – point b

Text proposed by the Commission

(b) to avoid significant adverse effects on financial stability, including by preventing contagion, and maintaining market discipline;

Amendment

(b) to avoid significant adverse effects on financial stability, including by preventing contagion, and maintaining market discipline, *while protecting public funds and limiting or avoiding unnecessary destruction of value*;

Or. en

Justification

Continuity of critical functions and financial stability are the two main resolution objectives while protecting public funds and limiting or avoiding unnecessary destruction of value should be taken into account and balanced as appropriate by the authorities.

Amendment 886

Elisa Ferreira

Proposal for a directive

Article 26 – paragraph 2 – point b

Text proposed by the Commission

(b) to avoid **significant** adverse effects on financial stability, including by preventing contagion, and maintaining market discipline;

Amendment

(b) to avoid adverse effects on financial stability, including by preventing contagion, and maintaining market discipline;

Or. en

Amendment 887

Marisa Matias, Jürgen Klute

Proposal for a directive

Article 26 – paragraph 2 – point b

Text proposed by the Commission

(b) to avoid significant adverse effects on financial stability, including by preventing contagion, and maintaining market discipline;

Amendment

(b) to protect public funds by eliminating reliance on extraordinary public financial support;

Or. en

Amendment 888

Ślawomir Nitras

Proposal for a directive

Article 26 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) to avoid significant adverse effects on financial stability, including by preventing contagion, and maintaining market discipline;

(b) to avoid significant adverse effects on financial stability ***of each Member State and the European Union as a whole***, including by preventing contagion, and maintaining market discipline;

Or. en

Amendment 889

Marisa Matias, Jürgen Klute

Proposal for a directive

Article 26 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) to protect ***public funds by minimising reliance on extraordinary public financial support***;

(c) to protect ***depositors covered by Directive 94/19/EC***;

Or. en

Amendment 890

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a directive

Article 26 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) ***to avoid unnecessary destruction of value and*** to seek to minimise the cost of resolution;

(d) to seek to minimise the cost of resolution;

Or. en

Justification

Minimising the cost of resolution also includes the avoidance of actions that damage the

value of assets that are to be sold or transferred as this would increase the risk of recourse to public money. However, it is not the role of public authorities to protect the value of private investments in the failed bank.

Amendment 891

Marisa Matias, Jürgen Klute

Proposal for a directive

Article 26 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) to avoid unnecessary destruction of value and to seek to minimise the cost of resolution;

(d) to ensure the continuity of critical functions;

Or. en

Amendment 892

Mario Mauro, Alfredo Pallone

Proposal for a directive

Article 26 – paragraph 2 – point d

Text proposed by the Commission

Amendment

*(d) to avoid unnecessary destruction of value and to **seek to minimise the cost of resolution**;*

*(d) to avoid unnecessary destruction of value and to **be the least cost alternative for creditors**;*

Or. en

Amendment 893

Elisa Ferreira

Proposal for a directive

Article 26 – paragraph 2 – point e

Text proposed by the Commission

Amendment

*(e) to protect depositors **covered by Directive 94/19/EC and investors covered***

(e) to protect depositors;

by Directive 97/9/EC;

Or. en

Amendment 894

Marisa Matias, Jürgen Klute

Proposal for a directive

Article 26 – paragraph 2 – point e

Text proposed by the Commission

Amendment

(e) to protect depositors covered by Directive 94/19/EC and investors covered by Directive 97/9/EC;

(e) to avoid unnecessary destruction of value and to seek to minimise the cost of resolution;

Or. en

Amendment 895

Marisa Matias, Jürgen Klute

Proposal for a directive

Article 26 – paragraph 2 – point e a (new)

Text proposed by the Commission

Amendment

(ea) to protect investors covered by Directive 97/9/EC;

Or. en

Amendment 896

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a directive

Article 26 – paragraph 2 – point f

Text proposed by the Commission

Amendment

(f) to protect client funds and client assets.

deleted

Justification

Minimising the cost of resolution also includes the avoidance of actions that damage the value of assets that are to be sold or transferred as this would increase the risk of recourse to public money. However, it is not the role of public authorities to protect the value of private investments in the failed bank.

Amendment 897

Marisa Matias, Jürgen Klute

Proposal for a directive

Article 26 – paragraph 2 – point f a (new)

Text proposed by the Commission

Amendment

(fa) to prevent excessive speculation as defined in Article 2;

Or. en

Amendment 898

Vicky Ford

Proposal for a directive

Article 26 – paragraph 3

Text proposed by the Commission

Amendment

3. Subject to different provisions of this Directive, the resolution objectives are of equal significance, and resolution authorities shall balance them as appropriate to the nature and circumstances of each case.

3. Resolution authorities shall accord equal significance to the resolution objectives ***and*** balance them as appropriate to the nature and circumstances of each case.

Or. en

Justification

Each of the objectives are important considerations that must be appropriately taken into account.

Amendment 899
Marisa Matias, Jürgen Klute

Proposal for a directive
Article 26 – paragraph 3

Text proposed by the Commission

3. Subject to different provisions of this Directive, ***the resolution objectives are of equal significance, and*** resolution authorities shall balance them as appropriate to the nature and circumstances of each case.

Amendment

3. Subject to different provisions of this Directive, resolution authorities shall balance them as appropriate to the nature and circumstances of each case.

Or. en

Amendment 900
Arlene McCarthy

Proposal for a directive
Article 27 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that resolution authorities shall take a resolution action in relation to an institution referred to in Article 1(a) only if all of the following conditions are met:

(a) the competent authority or resolution authority determines that the institution is failing or likely to fail;

(b) having regard to timing and other relevant circumstances, there is no reasonable prospect that any alternative private sector or supervisory action, other than a resolution action taken in respect of the institution, would prevent the failure of the institution within reasonable timeframe;

(c) a resolution action is necessary in the

Amendment

deleted

public interest pursuant to paragraph 3.

Or. en

Amendment 901
Arlene McCarthy

Proposal for a directive
Article 27 – paragraph 1 – point a

Text proposed by the Commission

(a) the competent authority or resolution authority determines that the institution is failing or likely to fail;

Amendment

(a) the competent authority or resolution authority determines that the institution is failing or likely to fail. ***This would include one or more of the following circumstances:***

(1) the institution is in breach or there are objective elements to support a determination that the institution will be in breach, in the near future, of the capital requirements for continuing authorisation in a way that would justify the withdrawal of the authorisation by the competent authority because the institution has incurred or is likely to incur in losses that will deplete all or substantially all of its own funds;

(2) the assets of the institution are or there are objective elements to support a determination that the assets of the institution will be, in the near future, less than its liabilities;

(3) the institution is or there are objective elements to support a determination that the institution will be, in the near future, unable to pay its obligations as they fall due;

(4) the institution requires extraordinary public financial support except when, in order to preserve financial stability, it requires any of the following:

(i) a State guarantee to back liquidity facilities provided by central banks

according to the banks' standard conditions (the facility is fully secured by collateral to which haircuts are applied, in function of its quality and market value, and the central bank charges a penal interest rate to the beneficiary); or

(ii) a State guarantee on newly issued liabilities in order to remedy a serious disturbance in the economy of a Member State.

In both cases mentioned in points (i) and (ii), the guarantee measures shall be confined to solvent financial institutions, shall not be part of a larger aid package, shall be conditional to approval under State aid rules, and shall be used for a maximum duration of three months.

Or. en

Justification

Clarification that – in addition to breach of capital requirements – authorities are empowered to use resolution tools when they deem a firm is likely to fail (as set out above). To inhibit authorities' ability to act quickly and decisively increases the risk that tax payers will foot the bill for the bank's failure where resolution authority are unnecessarily constrained from using the necessary tools at the appropriate time to ensure a smooth and effective resolution of the bank.

Amendment 902 **Markus Ferber**

Proposal for a directive **Article 27 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

1a. Member States shall ensure that, in the case of resolution measures, the proportionality principle and the particularities of the legal form taken by a credit institution are strictly respected.

Or. de

Justification

The multiplicity of types of institution makes it necessary to consider resolution measures carefully in the light of the legal form of the institution concerned. The proportionality principle is stressed.

Amendment 903
Leonardo Domenici

Proposal for a directive
Article 27 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Resolution authorities shall also take resolution actions if the authorisation has been withdrawn according to Article 18 of Directive [CRD IV] and a resolution action is necessary in the public interest pursuant to paragraph 2.

Or. en

Justification

We should not rule out the need to ensure an orderly liquidation of an institution whose authorisation has been withdrawn in relation to extremely serious violations of laws and regulations. This would be useful also to achieve a better co-ordination of this directive with CRD IV.

Amendment 904
Elisa Ferreira

Proposal for a directive
Article 27 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The previous adoption of an early intervention measure according to Article 23 is not a condition to take a resolution action.

Or. en

Amendment 905
Jürgen Klute

Proposal for a directive
Article 27 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. By derogation from paragraph 1 resolution authorities may take action in cases where the institution has:

(a) engaged in excessive speculation as defined in Article 2;

(b) acted against the general public interest.

Or. en

Amendment 906
Olle Schmidt

Proposal for a directive
Article 27 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) the competent authority or resolution authority determines that the institution is ***failing or likely to fail***;

(a) the competent authority or resolution authority determines that the institution is ***not viable to operate within its authorisation anymore based on the minimum own funds requirements according to Article 87 of Regulation (EU) No .../2012 of the European Parliament and of the Council of... [on prudential requirements for credit institutions and investment firms]***;

Or. en

Justification

The trigger point for Resolution should be high, clearly defined and tied to a harmonised

capital level under CRR/CRD IV. In order to achieve this objective the trigger should relate to the minimum own funds requirements according to CRR.

Amendment 907

Burkhard Balz, Werner Langen

Proposal for a directive

Article 27 – paragraph 1 – point a

Text proposed by the Commission

(a) the competent authority or resolution authority determines that the institution is failing or likely to fail;

Amendment

(a) the competent authority or resolution authority determines ***on the basis of objective and predefined criteria*** that the institution is failing or likely to fail;

Or. en

Amendment 908

Elisa Ferreira

Proposal for a directive

Article 27 – paragraph 1 – point a

Text proposed by the Commission

(a) the ***competent*** authority ***or resolution*** authority determines that the institution is failing or likely to fail;

Amendment

(a) the ***resolution*** authority, ***in consultation with the competent*** authority, determines that the institution is failing or likely to fail;

Or. en

Amendment 909

Sharon Bowles

Proposal for a directive

Article 27 – paragraph 1 – point a

Text proposed by the Commission

(a) the competent authority ***or resolution***

Amendment

(a) the competent authority determines that

authority determines that the institution is failing or likely to fail;

the institution is failing or likely to fail, **in particular due to lack of own funds or liquidity**;

Or. en

Amendment 910
Vicky Ford

Proposal for a directive
Article 27 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) the competent authority **or resolution authority** determines that the institution is failing or likely to fail;

(a) the competent authority determines that the institution is failing or likely to fail;

Or. en

Amendment 911
Peter Simon

Proposal for a directive
Article 27 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) having regard to timing and other relevant circumstances, there is no reasonable prospect that any alternative private sector or supervisory action, other than a resolution action taken in respect of the institution, would prevent the failure of the institution within reasonable timeframe;

(b) having regard to timing and other relevant circumstances, there is no reasonable prospect that any alternative private sector or supervisory action, other than a resolution action taken **by the resolution authorities** in respect of the institution, would prevent the failure of the institution within reasonable timeframe;

Or. de

Justification

A clarification that if resolution is already being undertaken, for example by a protection scheme as referred to in Article 80(8) of Directive 2006/48/EC, no resolution should be

undertaken by the authorities.

Amendment 912
Gianni Pittella

Proposal for a directive
Article 27 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) Resolution authorities shall also take resolution actions if the authorisation has been withdrawn according to Article 18 of the Directive (CRD IV) and a resolution action is necessary in the public interest pursuant to paragraph 2.

Or. en

Amendment 913
Sharon Bowles

Proposal for a directive
Article 27 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) Resolution authorities shall provide guidance on the way in which they will judge trigger conditions, which they shall make public and communicate to EBA.

Or. en

Amendment 914
Arlene McCarthy

Proposal for a directive
Article 27 – paragraph 2

2. For the purposes of point (a) of paragraph 1, an institution is deemed failing or likely to fail in one or more of the following circumstances: ***deleted***

(a) the institution is in breach or there are objective elements to support a determination that the institution will be in breach, in the near future, of the capital requirements for continuing authorisation in a way that would justify the withdrawal of the authorisation by the competent authority because the institution has incurred or is likely to incur in losses that will deplete all or substantially all of its own funds;

(b) the assets of the institution are or there are objective elements to support a determination that the assets of the institution will be, in the near future, less than its liabilities;

(c) the institution is or there are objective elements to support a determination that the institution will be, in the near future, unable to pay its obligations as they fall due;

(d) the institution requires extraordinary public financial support except when, in order to preserve financial stability, it requires any of the following:

(i) a State guarantee to back liquidity facilities provided by central banks according to the banks' standard conditions (the facility is fully secured by collateral to which haircuts are applied, in function of its quality and market value, and the central bank charges a penal interest rate to the beneficiary); or

(ii) a State guarantee on newly issued liabilities in order to remedy a serious disturbance in the economy of a Member State.

In both cases mentioned in points (i) and (ii), the guarantee measures shall be confined to solvent financial institutions, shall not be part of a larger aid package, shall be conditional to approval under State aid rules, and shall be used for a maximum duration of three months.

Or. en

Justification

Clarification that – in addition to capital breach of capital requirements – authorities are empowered to use resolution tools when they deem a firm is likely to fail (as set out above). To inhibit authorities' ability to act quickly and decisively increases the risk that tax payers will foot the bill for the bank's failure where resolution authority are unnecessarily constrained from using the necessary tools at the appropriate time to ensure a smooth and effective resolution of the bank.

**Amendment 915
Olle Schmidt**

**Proposal for a directive
Article 27 – paragraph 2 – subparagraph 1 – introductory part**

Text proposed by the Commission

Amendment

For the purposes of point (a) of paragraph 1, ***an institution is deemed failing or likely to fail in one or more of the following circumstances:***

For the purposes of point (a) of paragraph 1, ***the following conditions should be met:***

Or. en

Justification

The same logic behind this amendment as Schmidt amendment on article 27 (1).

**Amendment 916
Burkhard Balz, Werner Langen**

**Proposal for a directive
Article 27 – paragraph 2 – subparagraph 1 – point a**

Text proposed by the Commission

(a) the institution is in breach or there are objective elements to support a determination that the institution will be in breach, in the near future, of the capital requirements for continuing authorisation in a way that would justify the withdrawal of the authorisation by the competent authority because the institution has incurred or is likely to incur in losses that will deplete all or substantially all of its own funds;

Amendment

(a) the institution is in breach or there are objective elements to support a determination that the institution will be in breach, in the near future, of the ***objective and predefined criteria for fulfilling its*** capital requirements for continuing authorisation in a way that would justify the withdrawal of the authorisation by the competent authority because the institution has incurred or is likely to incur in losses that will deplete all or substantially all of its own funds;

Or. en

Amendment 917

Vicky Ford

Proposal for a directive

Article 27 – paragraph 2 – subparagraph 1 – point a

Text proposed by the Commission

(a) the institution is in breach or there are objective elements to support a determination that the institution will be in breach, in the near future, of the ***capital*** requirements for continuing authorisation in a way that would justify the withdrawal of the authorisation by the competent authority because the institution has incurred or is likely to incur in losses that will deplete all or substantially all of its own funds;

Amendment

(a) the institution is in breach or there are objective elements to support a determination that the institution will be in breach, in the near future, of the requirements for continuing authorisation in a way that would justify the withdrawal of the authorisation by the competent authority because the institution has incurred or is likely to incur in losses that will deplete all or substantially all of its own funds;

Or. en

Justification

The trigger for resolution should not be restricted to capital deficiencies but to breaching requirements for authorisation more broadly (including on liquidity and other grounds), because capital measures may be too backward-looking. Prompt Corrective Action regimes,

based on capital triggers, failed during the crisis.

Amendment 918

Burkhard Balz, Werner Langen

Proposal for a directive

Article 27 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) ***the assets of the institution are or*** there are objective ***elements*** to support a determination that the assets of the institution will be, in the near future, less than its liabilities;

(b) there are objective ***or predefined criteria*** to support a determination that the assets of the institution ***are or*** will be, in the near future, less than its liabilities;

Or. en

Amendment 919

Olle Schmidt

Proposal for a directive

Article 27 – paragraph 2 – subparagraph 1 – point c

Text proposed by the Commission

Amendment

(c) ***the institution is or there are objective elements to support a determination that the institution will be, in the near future, unable to pay its obligations as they fall due;***

deleted

Or. en

Justification

In situations of market stress investors are very sensitive to risk and even a minor suspicion of contagion effects and that a bank could get involved in a bail in could trigger a bank run. Due to that a liquidity trigger should be avoided. Liquidity could thus be self-fulfilling also for solvent institutions. A liquidity related trigger may hence increase systemic risk rather than mitigate it.

Amendment 920
Burkhard Balz, Werner Langen

Proposal for a directive
Article 27 – paragraph 2 – subparagraph 1 – point c

Text proposed by the Commission

(c) ***the institution is or*** there are objective ***elements*** to support a determination that the institution will be, in the near future, unable to pay its obligations as they fall due;

Amendment

(c) there are objective ***or predefined criteria*** to support a determination that the institution ***is or*** will be, in the near future, unable to pay its obligations as they fall due;

Or. en

Amendment 921
Sharon Bowles

Proposal for a directive
Article 27 – paragraph 2 – subparagraph 1 – point c

Text proposed by the Commission

(c) the institution is or there are objective elements to support a determination that the institution will be, in the near future, unable to pay its obligations as they fall due;

Amendment

(c) the institution is or there are objective elements to support a determination that the institution will be, in the near future, unable to pay its obligations ***on an ongoing basis*** as they fall due;

Or. en

Amendment 922
Vicky Ford

Proposal for a directive
Article 27 – paragraph 2 – subparagraph 1 – point c

Text proposed by the Commission

(c) the institution is or ***there are objective elements to support a determination that the institution will be, in the near future,*** unable to pay its obligations as they fall

Amendment

(c) the institution is or ***is likely to be*** unable to pay its obligations as they fall due;

due;

Or. en

Amendment 923

Olle Schmidt

Proposal for a directive

Article 27 – paragraph 2 – subparagraph 1 – point d – introductory part

Text proposed by the Commission

(d) the institution requires extraordinary public financial support ***except when***, in order to preserve financial stability, ***it requires any of the following***:

Amendment

(d) the institution requires extraordinary public financial support in order to preserve financial stability ***and there is no realistic prospect of the institution recovering without it.***

In all cases extraordinary public financial support shall be confined to solvent financial institutions, shall not be part of a larger aid package, shall be subject to State aid rules, and shall operate under the conditions set out in Article 35.

Or. en

Justification

In a systemic crisis there could be a need for extraordinary public financial support to institutions. This support should be based on market terms and would help rebuild confidence in the financial system. If state support would automatically trigger resolution for the institution concerned, then that could further exacerbate a systemic crisis and create large scale value destruction. Therefore article 27.2.d) needs to be changed as proposed in this amendment.

Amendment 924

Olle Schmidt

Proposal for a directive

Article 27 – paragraph 2 – subparagraph 1 – point d – point i

Text proposed by the Commission

Amendment

(i) a State guarantee to back liquidity facilities provided by central banks according to the banks' standard conditions (the facility is fully secured by collateral to which haircuts are applied, in function of its quality and market value, and the central bank charges a penal interest rate to the beneficiary); or ***deleted***

Or. en

Amendment 925
Olle Schmidt

Proposal for a directive
Article 27 – paragraph 2 – subparagraph 1 – point d – point ii

Text proposed by the Commission

Amendment

(ii) a State guarantee on newly issued liabilities in order to remedy a serious disturbance in the economy of a Member State. ***deleted***

Or. en

Amendment 926
Olle Schmidt

Proposal for a directive
Article 27 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

In both cases mentioned in points (i) and (ii), the guarantee measures shall be confined to solvent financial institutions, shall not be part of a larger aid package, shall be conditional to approval under State aid rules, and shall be used for a maximum duration of three months. ***deleted***

Amendment 927
Werner Langen

Proposal for a directive
Article 27 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall ensure that resolution tools pursuant to Article 31(2) are used only in accordance with the Member-State law applicable to the institution concerned. This shall apply, in particular, to institutions which have been set up in a form governed by public law and fulfil a public task assigned to them by law, and to institutions organised on a cooperative footing.

Or. de

Amendment 928
Elisa Ferreira

Proposal for a directive
Article 27 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall ensure that the competent authority draws a Code of Conduct on the assessment of if the institution is failing or likely to fail.

Or. en

Amendment 929
Andreas Schwab

Proposal for a directive
Article 27 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall ensure that institutions may be resolved only in accordance with the Member-State law applicable to the institution concerned by means of the application of the tools referred to in Article 31(2). This shall apply, in particular, to institutions which have been set up in a form governed by public law or fulfil a public task assigned to them by law, and to institutions organised on a cooperative footing.

Or. de

Amendment 930
Elisa Ferreira

Proposal for a directive
Article 27 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. EBA shall develop draft implementing technical standards for specifying the content of the Code of Conduct referred to in the previous paragraph.

EBA shall submit those draft implementing technical standards to the Commission within twelve months from the date of entry into force of this Directive.

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.

Or. en

Amendment 931
Elisa Ferreira

Proposal for a directive
Article 27 – paragraph 4

Text proposed by the Commission

Amendment

4. EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010 to promote the convergence of supervisory and resolution practices regarding the interpretation of the different circumstances when an institution shall be considered as failing or likely to fail. EBA shall develop these guidelines at the latest by the date provided for in the first subparagraph of Article 115(1) of this Directive.

deleted

Or. en

Amendment 932
Vicky Ford

Proposal for a directive
Article 27 – paragraph 4

Text proposed by the Commission

Amendment

4. EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010 to promote the convergence of supervisory and resolution practices regarding the interpretation of the different circumstances when an institution shall be considered as failing or likely to fail. EBA shall develop these guidelines at the latest by the date provided for in the first subparagraph of Article 115(1) of this Directive.

deleted

Or. en

Amendment 933
Sharon Bowles

Proposal for a directive
Article 27 – paragraph 4

Text proposed by the Commission

4. EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010 to promote the convergence of supervisory and resolution practices regarding the interpretation of the different circumstances when an institution shall be considered as failing or likely to fail. EBA shall develop these guidelines at the latest by the date provided for in the first subparagraph of Article 115(1) of this Directive.

Amendment

4. EBA shall issue guidelines, in accordance with Article 16 of Regulation (EU) No 1093/2010 to promote the convergence of supervisory and resolution practices regarding the interpretation of the different circumstances when an institution shall be considered as failing or likely to fail. EBA shall develop these guidelines at the latest by the date provided for in the first subparagraph of Article 115(1) of this Directive. ***These guidelines shall be made public and shall cover criteria for judging trigger points and use of resolution tools.***

EBA shall monitor compliance with these guidelines for the purposes of the review in Article 114a.

Or. en

Amendment 934
Olle Schmidt

Proposal for a directive
Article 27 – paragraph 5

Text proposed by the Commission

5. The Commission, taking into account, where appropriate, the experience acquired in the application of EBA guidelines, shall adopt delegated acts in accordance with Article 103 aimed at specifying the circumstances when an institution shall be considered as failing or likely to fail.

Amendment

deleted

Or. en

Justification

The same logic behind this amendment as Schmidt amendment on article 27 (1).

Amendment 935

Elisa Ferreira

Proposal for a directive

Article 27 – paragraph 5

Text proposed by the Commission

Amendment

**5. The Commission, taking into account, *deleted*
where appropriate, the experience
acquired in the application of EBA
guidelines, shall adopt delegated acts in
accordance with Article 103 aimed at
specifying the circumstances when an
institution shall be considered as failing
or likely to fail.**

Or. en

Amendment 936

Vicky Ford

Proposal for a directive

Article 27 – paragraph 5

Text proposed by the Commission

Amendment

**5. The Commission, taking into account, *deleted*
where appropriate, the experience
acquired in the application of EBA
guidelines, shall adopt delegated acts in
accordance with Article 103 aimed at
specifying the circumstances when an
institution shall be considered as failing
or likely to fail.**

Or. en

Amendment 937
Burkhard Balz, Werner Langen

Proposal for a directive
Article 27 – paragraph 5

Text proposed by the Commission

5. The Commission, taking into account, where appropriate, the experience ***acquired in the application*** of EBA guidelines, shall adopt delegated acts in accordance with Article 103 ***aimed at specifying the circumstances when an institution shall be considered as failing or likely to fail.***

Amendment

5. The Commission, taking into account, where appropriate, the experience of EBA guidelines, shall adopt delegated acts in accordance with Article 103 ***to define the objective criteria for the purposes of point (a) of paragraph 1 and points (a) to (c) of paragraph 2.***

Or. en

Amendment 938
Wolf Klinz

Proposal for a directive
Article 27 – paragraph 5

Text proposed by the Commission

5. The Commission, taking into account, where appropriate, the experience acquired in the application of EBA guidelines, ***shall*** adopt delegated acts in accordance with Article 103 aimed at specifying the circumstances when an institution shall be considered as failing or likely to fail.

Amendment

5. The Commission, taking into account, where appropriate, the experience acquired in the application of EBA guidelines, ***may*** adopt delegated acts in accordance with Article 103 aimed at specifying the circumstances when an institution shall be considered as failing or likely to fail.

Or. en

Amendment 939
Śławomir Nitras

Proposal for a directive
Article 28

Text proposed by the Commission

Amendment

Article 28

deleted

Or. en

Justification

The subjective scope of directive proposal is too extensive and can lead to legal obstacles and thus hinder the execution of its provisions. It should be also borne in mind that the Commission's consultation process on establishing to resolution regime with regard to financial institutions other than banks is still pending.

Amendment 940

Elisa Ferreira

Proposal for a directive

Article 28 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that resolution authorities may take a resolution action in relation to a financial institution or firm referred to in point (b) of Article 1, when the conditions specified in Article 27(1), are met with regard to both the financial institution or firm and with regard to the parent institution subject to consolidated supervision.

1. Member States shall ensure that resolution authorities may take a resolution action in relation to a financial institution or firm referred to in point (b) of Article 1, when the conditions specified in Article 27(1) are met with regard to both the financial institution or firm and with regard to the parent institution subject to consolidated supervision, ***provided that any group financial support agreements foreseen in Chapter III of Title II or any other possible form of group financial support is able to cease the conditions specified in Article 27(1) with regard to the financial institution or firm referred to in point (b) of Article 1.***

Or. en

Amendment 941

Elisa Ferreira

Proposal for a directive
Article 28 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that resolution authorities shall take a resolution action in relation to a company referred to in points (c) or (d) of Article 1, when the conditions specified in Article 27(1) are met with regard to both the company referred to in points (c) or (d) of Article 1 and with regard to one or more subsidiaries which are institutions.

Amendment

2. Member States shall ensure that resolution authorities shall take a resolution action in relation to a company referred to in points (c) or (d) of Article 1, when the conditions specified in Article 27(1) are met with regard to both the company referred to in points (c) or (d) of Article 1 and with regard to one or more subsidiaries which are institutions, ***provided that any group financial support agreements foreseen in Chapter III of Title II or any other possible form of group financial support is able to cease the conditions specified in Article 27(1) with regard to the company referred to in points (c) or (d) of Article 1.***

Or. en

Amendment 942
Mario Mauro, Alfredo Pallone

Proposal for a directive
Article 28 – paragraph 4

Text proposed by the Commission

4. Subject to paragraph 3 and by way of derogation from the provisions of paragraph 1, notwithstanding the fact that a company referred to in point(c) or (d) of Article 1 may not meet the conditions established in Article 27 (1) resolution authorities may take resolution action with regards to a company referred to in point (c) or (d) of Article 1 when one or more of the subsidiaries which are institutions comply with the conditions established in Article 27 (1), (2) and (3) and action with regard to the company referred to in points

Amendment

4. Subject to paragraph 3 and by way of derogation from the provisions of paragraph 1, notwithstanding the fact that a company referred to in point(c) or (d) of Article 1 may not meet the conditions established in Article 27 (1) resolution authorities may take resolution action with regards to a company referred to in point (c) or (d) of Article 1 when one or more of the subsidiaries which are institutions comply with the conditions established in Article 27 (1), (2) and (3) and ***their assets and liabilities represent the majority of***

(c) or (d) of Article 1 is necessary for the resolution of **one or more** subsidiaries which are institutions **or** for the resolution of the group as a whole.

the assets and liabilities of the group and action with regard to the company referred to in points (c) or (d) of Article 1 is necessary for the resolution of ***such*** subsidiaries which are institutions ***and*** for the resolution of the group as a whole.

Or. en

Amendment 943
Sharon Bowles

Proposal for a directive
Article 28 – paragraph 4

Text proposed by the Commission

4. Subject to paragraph 3 and by way of derogation from the provisions of paragraph 1, notwithstanding the fact that a company referred to in point(c) or (d) of Article 1 may not meet the conditions established in Article 27 (1) resolution authorities may take resolution action with regards to a company referred to in point (c) or (d) of Article 1 when one or more of the subsidiaries which are institutions comply with the conditions established in Article 27 (1), (2) and (3) and action with regard to the company referred to in points (c) or (d) of Article 1 is necessary for the resolution of one or more subsidiaries which are institutions or for the resolution of the group as a whole.

Amendment

4. Subject to paragraph 3 and by way of derogation from the provisions of paragraph 1, notwithstanding the fact that a company referred to in point(c) or (d) of Article 1 may not meet the conditions established in Article 27 (1) resolution authorities may take resolution action with regards to a company referred to in point (c) or (d) of Article 1 when one or more of the subsidiaries which are institutions comply with the conditions established in Article 27 (1), (2) and (3) and action with regard to the company referred to in points (c) or (d) of Article 1 is necessary for the resolution of one or more subsidiaries which are institutions or for the resolution of the group as a whole. ***This should only be done in preference to specific action with regard to the subsidiary where the failure threatens the group as a whole or the insolvency law of the Member State requires that groups be treated as a whole.***

Or. en

Amendment 944
Elisa Ferreira

Proposal for a directive
Article 29 – paragraph 1 – point a

Text proposed by the Commission

(a) the *shareholders of the institution under resolution bear first losses*;

Amendment

(a) the *resolution tools are applied and the resolution powers are exercised according to the resolution plan where appropriate*;

Or. en

Amendment 945
Elisa Ferreira

Proposal for a directive
Article 29 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) the *shareholders of the institution under resolution bear first losses*;

Or. en

Amendment 946
Marisa Matias, Jürgen Klute

Proposal for a directive
Article 29 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) *senior managers of the institution under resolution bear losses, both as shareholders and creditors*;

Or. en

Amendment 947
Vicky Ford

Proposal for a directive
Article 29 – paragraph 1 – point b

Text proposed by the Commission

(b) creditors of the institution under resolution bear losses after the shareholders in accordance with the order of priority of their claims pursuant to this Directive;

Amendment

(b) creditors of the institution under resolution bear losses after the shareholders in accordance with the order of priority of their claims pursuant to **Article 43 of** this Directive;

Or. en

Amendment 948
Elisa Ferreira

Proposal for a directive
Article 29 – paragraph 1 – point b

Text proposed by the Commission

(b) creditors of the institution under resolution bear losses after the shareholders in accordance with the order of priority of their claims pursuant to this Directive;

Amendment

(b) creditors of the institution under resolution, **excluding depositors**, bear losses after the shareholders in accordance with the order of priority of their claims pursuant to this Directive;

Or. en

Amendment 949
Gunnar Hökmark

Proposal for a directive
Article 29 – paragraph 1 – point b

Text proposed by the Commission

(b) creditors of the institution under resolution bear losses after the shareholders in accordance with the order of priority of their claims pursuant to this Directive;

Amendment

(b) creditors of the institution under resolution bear losses after the shareholders in accordance with the order of priority of their claims pursuant to **Article 43** this Directive;

Or. en

Justification

The reference to “the order of priority of their claims pursuant to this Directive” is unclear as there is no further elaboration for where this is set out.

Amendment 950

Marisa Matias, Jürgen Klute

Proposal for a directive

Article 29 – paragraph 1 – point b

Text proposed by the Commission

(b) creditors of the institution under resolution bear losses after *the shareholders* in accordance with the order of priority of their claims pursuant to this Directive;

Amendment

(b) creditors of the institution under resolution bear losses *only* after *complete shareholder value loss* in accordance with the order of priority of their claims pursuant to this Directive;

Or. en

Amendment 951

Diogo Feio

Proposal for a directive

Article 29 – paragraph 1 – point c

Text proposed by the Commission

(c) senior management of the institution under resolution is replaced;

Amendment

deleted

Or. en

Justification

it should not be an automatic procedure, please see previous proposed AMs

Amendment 952

Olle Schmidt

Proposal for a directive
Article 29 – paragraph 1 – point c

Text proposed by the Commission

(c) senior management of the institution under resolution is replaced;

Amendment

(c) senior management of the institution under resolution is replaced ***subject to Member State law, by an administrator appointed by the resolution authority***;

Or. en

Justification

I propose a necessary clarification. This provision should be subject to Member State law as employment law differs between Member States.

Amendment 953
Mario Mauro, Alfredo Pallone

Proposal for a directive
Article 29 – paragraph 1 – point c

Text proposed by the Commission

(c) senior management of the institution under resolution is replaced;

Amendment

(c) senior management of the institution under resolution is replaced ***and a monitoring trustee is appointed by the creditors to control the application of the resolution tool and the management of the institution under resolution***;

Or. en

Amendment 954
Śławomir Nitras

Proposal for a directive
Article 29 – paragraph 1 – point c

Text proposed by the Commission

(c) senior management of the institution

Amendment

(c) senior management (***as a whole or particular representatives***) of the

under resolution is replaced;

institution under resolution is replaced;

Or. en

Amendment 955

Marisa Matias, Jürgen Klute

Proposal for a directive

Article 29 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) senior managers of the institution under resolution bear losses that are commensurate under civil or criminal law with their individual responsibility for the failure of the institution;

deleted

Or. en

Amendment 956

Olle Schmidt

Proposal for a directive

Article 29 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) senior managers of the institution under resolution ***bear losses that are commensurate*** under civil or criminal law ***with*** their individual responsibility for the failure of the institution;

(d) senior managers of the institution under resolution ***are made liable, subject to Member State law,*** under civil or criminal law ***for*** their individual responsibility for the failure of the institution;

Or. en

Justification

This provision should be subject to Member State law as employment law differs between Member States.

Amendment 957
Philippe Lamberts

Proposal for a directive
Article 29 – paragraph 1 – point d

Text proposed by the Commission

(d) senior managers of the institution under resolution bear losses that are commensurate under civil or criminal law with their individual responsibility for the failure of the institution;

Amendment

(d) senior managers of the institution under resolution ***are subject to a temporary ban regarding the exercise of senior responsibility on another institution for up to 20 years or*** bear losses that are commensurate under civil or criminal law with their individual responsibility for the failure of the institution;

Or. en

Amendment 958
Marisa Matias, Jürgen Klute

Proposal for a directive
Article 29 – paragraph 1 – point f

Text proposed by the Commission

(f) no creditor incurs greater losses that would be incurred if the institution would have been wound down under normal insolvency proceedings.

Amendment

(f) no creditor incurs greater losses ***than those*** that would be incurred if the institution would have been wound down under normal insolvency proceedings.

Or. en

Amendment 959
Elisa Ferreira, Arlene McCarthy

Proposal for a directive
Article 29 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) claims of depositors are adequately protected.

Amendment 960
Sharon Bowles

Proposal for a directive
Article 29 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) claims of depositors with deposits that are guaranteed in accordance with Directive 94/19/EC are adequately protected on insolvency of the credit institution. In the case of third country claims of depositors due account shall be taken of reciprocal treatment of EU depositors.

Or. en

Amendment 961
Vicky Ford

Proposal for a directive
Article 29 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) claims of depositors with deposits that are guaranteed in accordance with Directive 94/19/EC are adequately protected on insolvency of the credit institution.

Or. en

Amendment 962
Burkhard Balz, Werner Langen

Proposal for a directive
Article 29 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall ensure that resolution tools are applied proportionally and in accordance with the legal form of the credit institution concerned.

Or. en

**Amendment 963
Sharon Bowles**

**Proposal for a directive
Article 29 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

1a. In order to give effect to paragraph (1)(fa) new, Member States shall ensure that:

(i) claims of depositors with deposits that are guaranteed in accordance with Directive 94/19/EC are granted a preferential claim so as to have a higher priority ranking over the claims of ordinary unsecured, non-preferred creditors in the event of insolvency of the credit institution;

(ii) the depositor guarantee scheme subrogating to the rights of depositors with deposits that are guaranteed in accordance with Directive 94/19/EC is granted a preferential claim corresponding to the higher priority ranking than depositors pursuant to point (i), but only so far as concerns payments made to depositors up to the amount of their guaranteed deposits under the scheme.

Or. en

Amendment 964
Elisa Ferreira, Arlene McCarthy

Proposal for a directive
Article 29 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. For the purposes of paragraph 1(fa), Member States shall ensure that the claims of depositors are granted a preferential claim so as to have a higher priority ranking over the claims of ordinary unsecured creditors in the event of insolvency of the credit institution.

Or. en

Amendment 965
Elisa Ferreira, Arlene McCarthy

Proposal for a directive
Article 29 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Member States shall ensure that when Deposit Guarantee Schemes are subrogated to the claims of depositors by virtue of payments made to depositors up to the amount of their guaranteed deposits under the scheme, the preferential claim as established in the previous paragraph is also applicable.

Or. en

Amendment 966
Elisa Ferreira

Proposal for a directive
Article 29 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1c. Member States shall require that, where an institution meets the conditions for resolution and the resolution authority decides to apply a resolution tool foreseen in Chapter III of this Title to that institution, before any resolution action is taken resolution authorities exercise the write down power in accordance with the provisions of Articles 51 and 52 in relation to relevant capital instruments issued by an institution without delay.

Or. en

Amendment 967

Vicky Ford

Proposal for a directive

Article 29 – paragraph 2

Text proposed by the Commission

Amendment

2. Where an institution is a group entity, resolution authorities shall apply resolution tools and exercise resolution powers in a way that minimises the impact on affiliated institutions and on the group as a whole and minimises the adverse effect on financial stability in the Union and, in particular, in the countries where the group operates.

deleted

Or. en

Amendment 968

Slawomir Nitras

Proposal for a directive

Article 29 – paragraph 2

Text proposed by the Commission

2. ***Where an institution is a*** group entity, resolution ***authorities*** shall apply resolution tools and exercise resolution powers in a way that ***minimises*** the impact on affiliated institutions and on the group as a whole and minimises the adverse effect on financial stability in ***the Union and, in particular, in the countries where the group operates.***

Amendment

2. ***In the case of the*** group entity, ***the group*** resolution ***authority*** shall apply ***the*** resolution tools and exercise resolution powers ***towards the parent undertaking*** in a way that ***minimises*** the impact on affiliated institutions and on the group as a whole and minimises the adverse effect on financial stability in ***particular countries where the group operates and in the Union as a whole.***

Or. en

Amendment 969

Vicky Ford

Proposal for a directive

Article 29 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. In order to give effect to paragraph 1(g), Member States shall ensure that:

(i) claims of depositors with deposits that are guaranteed in accordance with Directive 94/19/EC are granted a preferential claim so as to have a higher priority ranking over the claims of ordinary unsecured, non-preferred creditors in the event of insolvency of the credit institution;

(ii) the depositor guarantee scheme subrogating to the rights of depositors with deposits that are guaranteed in accordance with Directive 94/19/EC is granted a preferential claim corresponding to the higher priority ranking than depositors pursuant to point (i), but only so far as concerns payments made to depositors up to the amount of their guaranteed deposits under the scheme.

Amendment 970
Olle Ludvigsson

Proposal for a directive
Article 29 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. When applying the resolution tools and exercising the resolution powers, resolution authorities shall inform and consult with the employees and their representatives. Where applicable, collective agreements, or other arrangements provided for by social partners, shall be respected in this regard.

Or. en

Amendment 971
Marisa Matias, Jürgen Klute

Proposal for a directive
Article 29 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Extraordinary public financial support will not be considered before the tools referred to in Paragraph 1 are implemented to their full extent.

Or. en

Amendment 972
Olle Ludvigsson

Proposal for a directive
Article 29 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. When resolution authorities apply resolution tools and exercise resolution powers, this shall be done without prejudice to provisions on the representation of employees in company boards as provided for by national legislation or practice.

Or. en

Justification

Since employees are key stakeholders in a resolution process, it should be made clear that the provisions of this directive do not weaken or obstruct national rules on employee representation.

Amendment 973
Wolf Klinz

Proposal for a directive
Article 29 a (new)

Text proposed by the Commission

Amendment

Article 29a

Special management

1. Member States shall ensure that in the resolution of an institution competent authorities may appoint a special manager to replace the management of the institution. Competent authorities shall make public the appointment of a special manager. Member States shall further ensure that the special manager has the qualifications, ability and knowledge required to carry out his or her functions.

2. The special manager shall have all the powers of the management of the institution under the statutes of the institution and under national law,

including the power to exercise all the administrative functions of the management of the institution. However, the special manager may only exercise the power to convene the general meeting of the shareholders of the institution and to set the agenda with the prior consent of the competent authority.

3. The special manager shall have the statutory duty to take all the measures necessary and to promote solutions in order to redress the financial situation of the institution and restore the sound and prudent management of its business and organization. Where necessary, that duty shall override any other duty of management in accordance with the statutes of the institution or national law, insofar as they are inconsistent. Those solutions may include an increase of capital, reorganisation of the ownership structure of the institution or takeovers by institutions that are financially and organisationally sound.

4. Competent authorities may set limits to the action of a special manager or require that certain acts of the special manager be subject to the competent authority's prior consent. The competent authorities may remove the special manager at any time.

5. Member States shall require that a special manager draw up reports for the appointing competent authority on the economic and financial situation of the institution and on the acts performed in the conduct of his duties, at regular intervals set by the competent authority and at the beginning and the end of its mandate.

6. Subject to the provisions in paragraphs 1 to 5 the appointment of the special manager shall not prejudice the rights of the shareholders or owners provided for in accordance Union or national company law.

