



**2016/0362(COD)**

29.1.2018

# **AMENDMENTS**

## **30 - 190**

**Draft report**

**Gunnar Hökmark**

(PE610.856v01-00)

Loss-absorbing and recapitalisation capacity of credit institutions and investment firms and amending Directive 98/26/EC, Directive 2002/47/EC, Directive 2012/30/EU, Directive 2011/35/EU, Directive 2005/56/EC, Directive 2004/25/EC and Directive 2007/36/EC

Proposal for a directive

(COM(2016)0852 – C8-0481/2016 – 2016/0362(COD))



**Amendment 30**  
**Markus Ferber**

**Proposal for a directive**  
**Recital 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***(1 a) In order to facilitate long-term planning and establish certainty with regards to the necessary buffers, markets need timely clarity about the eligibility criteria required for instruments to be recognised as TLAC/MREL liabilities.***

Or. en

**Amendment 31**  
**Ernest Urtasun, Philippe Lamberts, Sven Giegold**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Recital 2**

*Text proposed by the Commission*

*Amendment*

(2) The implementation of the TLAC standard in the Union needs to take account of the existing institution-specific minimum requirement for own funds and eligible liabilities ('MREL') applicable to all Union credit institutions and investment firms as laid down in Directive 2014/59/EU of the European Parliament and of the Council<sup>13</sup>. As TLAC and MREL pursue the same objective of ensuring that Union institutions have sufficient loss absorbing capacity, the two requirements should be complementary elements of a common framework. Operationally, the harmonised minimum level of the TLAC standard **for G-SIIs** ('TLAC minimum requirement') should be introduced in Union legislation through amendments to Regulation (EU) No 575/2013<sup>14</sup>, while the institution-specific

(2) The implementation of the TLAC standard in the Union needs to take account of the existing institution-specific minimum requirement for own funds and eligible liabilities ('MREL') applicable to all Union credit institutions and investment firms as laid down in Directive 2014/59/EU of the European Parliament and of the Council<sup>13</sup>. As TLAC and MREL pursue the same objective of ensuring that Union institutions have sufficient loss absorbing capacity, the two requirements should be complementary elements of a common framework. Operationally, the harmonised minimum level of the TLAC standard ('TLAC minimum requirement') should be introduced in Union legislation through amendments to Regulation (EU) No 575/2013<sup>14</sup>, while the institution-specific

add-on *for G-SIIs and the institution-specific requirement for non-G-SIIs*, referred to as minimum requirement for own funds and eligible liabilities, should be addressed through targeted amendments to Directive 2014/59/EU and Regulation (EU) No 806/2014<sup>15</sup>. The relevant provisions of this Directive as regards loss absorbing and recapitalisation capacity of institutions should be applied together with those in the aforementioned pieces of legislation and in Directive 2013/36/EU<sup>16</sup> in a consistent way.

---

<sup>13</sup> Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms, OJ L 173, 12.6.2014, p. 190

<sup>14</sup> Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, OJ L 176, 27.6.2013, p.1

<sup>15</sup> Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010, OJ L 225, 30.7.2014, p. 1

<sup>16</sup> Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, OJ L 176, 27.6.2013, p. 338

add-on referred to as minimum requirement for own funds and eligible liabilities, should be addressed through targeted amendments to Directive 2014/59/EU and Regulation (EU) No 806/2014<sup>15</sup>. The relevant provisions of this Directive as regards loss absorbing and recapitalisation capacity of institutions should be applied together with those in the aforementioned pieces of legislation and in Directive 2013/36/EU<sup>16</sup> in a consistent way.

---

<sup>13</sup> Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms, OJ L 173, 12.6.2014, p. 190

<sup>14</sup> Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, OJ L 176, 27.6.2013, p.1

<sup>15</sup> Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010, OJ L 225, 30.7.2014, p. 1

<sup>16</sup> Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, OJ L 176, 27.6.2013, p. 338

Or. en

## **Amendment 32**

**Ernest Urtasun, Philippe Lamberts, Sven Giegold**  
on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Recital 3**

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

(3) The absence of harmonised Union rules in respect of the implementation of the TLAC standard in the Union would create additional costs and legal uncertainty *for institutions* and make the application of the bail-in tool for cross-border institutions more difficult. That absence of harmonised Union rules also results in competitive distortions on the internal market given that the costs for institutions to comply with the existing requirements and the TLAC standard may differ considerably across the Union. It is therefore necessary to remove those obstacles to the functioning of the internal market and to avoid distortions of competition resulting from the absence of harmonised Union rules in respect of the implementation of the TLAC standard. Consequently, the appropriate legal basis for this Directive is Article 114 of the Treaty on the Functioning of the European Union (TFEU), as interpreted in accordance with the case law of the Court of Justice of the European Union.

##### *Amendment*

(3) The absence of harmonised Union rules in respect of the implementation of the TLAC standard in the Union would create additional costs and legal uncertainty and make the application of the bail-in tool for cross-border institutions more difficult. That absence of harmonised Union rules also results in competitive distortions on the internal market given that the costs for institutions to comply with the existing requirements and the TLAC standard may differ considerably across the Union. It is therefore necessary to remove those obstacles to the functioning of the internal market and to avoid distortions of competition resulting from the absence of harmonised Union rules in respect of the implementation of the TLAC standard. Consequently, the appropriate legal basis for this Directive is Article 114 of the Treaty on the Functioning of the European Union (TFEU), as interpreted in accordance with the case law of the Court of Justice of the European Union.

Or. en

## **Amendment 33**

**Markus Ferber, Werner Langen**

### **Proposal for a directive**

#### **Recital 5**

*Text proposed by the Commission*

(5) Member States should ensure that institutions have sufficient loss absorbing and recapitalisation capacity to ensure smooth and fast absorption of losses and recapitalisation in resolution with a minimum impact on financial stability and taxpayers. That should be achieved through compliance by institutions with an institution-specific minimum requirement for own funds and eligible liabilities ('MREL') as provided in Directive 2014/59/EU.

*Amendment*

(5) Member States should ensure that institutions have sufficient loss absorbing and recapitalisation capacity to ensure smooth and fast absorption of losses and recapitalisation in resolution with a minimum impact on financial stability and taxpayers. That should be achieved through compliance by institutions with an institution-specific minimum requirement for own funds and eligible liabilities ('MREL') as provided in Directive 2014/59/EU. ***Where the resolution plan provides that no resolution action would be taken, including if the entity shall be wound up under normal insolvency proceedings, the entity should not be subject to MREL requirements.***

Or. en

*Justification*

*When resolution authorities determine (in resolutions plans) that the institution will be wound up in ordinary insolvency proceedings and thereby exclude any resolution action, the institution should not be subject to any MREL requirements.*

**Amendment 34**  
**Marco Valli**

**Proposal for a directive**  
**Recital 5**

*Text proposed by the Commission*

(5) Member States should ensure that institutions have sufficient loss absorbing and recapitalisation capacity to ensure smooth and fast absorption of losses and recapitalisation in resolution with a minimum impact on financial stability and taxpayers. That should be achieved through compliance by institutions with an institution-specific minimum requirement

*Amendment*

(5) Member States should ensure that ***systemically important*** institutions ***classified as G-SIIs and O-SIIs*** have sufficient loss absorbing and recapitalisation capacity to ensure smooth and fast absorption of losses and recapitalisation in resolution with a minimum impact on financial stability and taxpayers. That should be achieved through

for own funds and eligible liabilities ('MREL') as provided in Directive 2014/59/EU.

compliance by *those* institutions with an institution-specific minimum requirement for own funds and eligible liabilities ('MREL') as provided in Directive 2014/59/EU.

Or. en

### Amendment 35

**Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias**

#### Proposal for a directive

##### Recital 5

*Text proposed by the Commission*

(5) Member States should ensure that institutions have sufficient loss absorbing and recapitalisation capacity to ensure smooth and fast absorption of losses and recapitalisation in resolution with a minimum impact on financial stability and *taxpayers*. That should be achieved through compliance by institutions with an institution-specific minimum requirement for own funds and eligible liabilities ('MREL') as provided in Directive 2014/59/EU.

*Amendment*

(5) Member States should ensure that institutions have sufficient loss absorbing and recapitalisation capacity to ensure smooth and fast absorption of losses and recapitalisation in resolution with a minimum impact on financial stability and *without taxpayer bail-outs*. That should be achieved through compliance by institutions with an institution-specific minimum requirement for own funds and eligible liabilities ('MREL') as provided in Directive 2014/59/EU.

Or. en

### Amendment 36

**Syed Kamall**

#### Proposal for a directive

##### Recital 7

*Text proposed by the Commission*

(7) Eligibility criteria *for bail-inable liabilities* for the MREL should be closely aligned with those laid down in Regulation (EU) No 575/2013 for the TLAC minimum requirement, in line with the complementary adjustments and

*Amendment*

(7) Eligibility criteria for the MREL should be closely aligned with those laid down in Regulation (EU) No 575/2013 for the TLAC minimum requirement, in line with the complementary adjustments and requirements introduced in this Directive.

requirements introduced in this Directive.  
***In particular, certain debt instruments with an embedded derivative component, such as certain structured notes, should be eligible to meet the MREL to the extent that they have a fixed principal amount repayable at maturity while only an additional return is linked to a derivative and depends on the performance of a reference asset. In view of their fixed principal amount, those instruments should be highly loss-absorbing and easily bail-inable in resolution.***

Or. en

#### *Justification*

*Structured notes should not be eligible to meet MREL due to the complexity that this would add to the resolution process. Furthermore, their inclusion would be contrary to the TLAC standard.*

#### **Amendment 37**

**Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias**

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

#### **Recital 7**

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

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

##### *Amendment*

(7) Eligibility criteria for bail-inable liabilities for the MREL should be closely aligned with those laid down in Regulation (EU) No 575/2013 for the TLAC minimum requirement. ***Eligible liabilities should be clearly subordinated to other liabilities in order to avoid any ‘no creditor worse off’ issues.***



*principal amount, those instruments should be highly loss-absorbing and easily bail-inable in resolution.*

Or. en

#### **Amendment 38**

**Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias**

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

#### **Recital 7 a (new)**

*Text proposed by the Commission*

*Amendment*

***(7 a) Recent cases of bank bail-outs with public money have highlighted fundamental shortcomings of the current recovery and resolution framework, which was drafted with the intention that no socialisation of losses should take place. It is therefore appropriate to close existing loopholes, namely precautionary recapitalisation, which enable authorities to inject public money into failing banks.***

Or. en

#### **Amendment 39**

**Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias**

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

#### **Recital 8**

*Text proposed by the Commission*

*Amendment*

***(8) The scope of liabilities to meet the MREL includes, in principle, all liabilities resulting from claims arising from unsecured non-preferred creditors (non-subordinated liabilities) unless they do not meet specific eligibility criteria provided in this Directive.*** To enhance the resolvability of institutions through an effective use of the bail-in tool, resolution authorities should ***be able to*** require that

(8) To enhance the resolvability of institutions through an effective use of the bail-in tool, resolution authorities should require that the MREL is met with subordinated liabilities, in particular when there are clear indications that bailed-in creditors are likely to bear losses in resolution that would exceed their potential losses in insolvency.

the MREL is met with subordinated liabilities, in particular when there are clear indications that bailed-in creditors are likely to bear losses in resolution that would exceed their potential losses in insolvency. ***The requirement to meet MREL with subordinated liabilities should be requested only for a level necessary to prevent that losses of creditors in resolution are above losses that they would otherwise incur under insolvency. Any subordination of debt instruments requested by resolution authorities for the MREL should be without prejudice to the possibility to partly meet the TLAC minimum requirement with non-subordinated debt instruments in accordance with Regulation (EU) No 575/2013 as permitted by the TLAC standard.***

Or. en

**Amendment 40**  
**Syed Kamall**

**Proposal for a directive**  
**Recital 8**

*Text proposed by the Commission*

(8) The scope of liabilities to meet the MREL includes, in principle, all liabilities resulting from claims arising from unsecured non-preferred creditors (non-subordinated liabilities) unless they do not meet specific eligibility criteria provided in this Directive. To enhance the resolvability of institutions through an effective use of the bail-in tool, resolution authorities should be able to require that the MREL is met with subordinated liabilities, ***in particular when there are clear indications that bailed-in creditors are likely to bear losses in resolution that would exceed their potential losses in insolvency. The requirement to meet***

*Amendment*

(8) The scope of liabilities to meet the MREL includes, in principle, all liabilities resulting from claims arising from unsecured non-preferred creditors (non-subordinated liabilities) unless they do not meet specific eligibility criteria provided in this Directive. To enhance the resolvability of institutions through an effective use of the bail-in tool, resolution authorities should be able to require that the MREL is met with subordinated liabilities;

***MREL with subordinated liabilities should be requested only for a level necessary to prevent that losses of creditors in resolution are above losses that they would otherwise incur under insolvency. Any subordination of debt instruments requested by resolution authorities for the MREL should be without prejudice to the possibility to partly meet the TLAC minimum requirement with non-subordinated debt instruments in accordance with Regulation (EU) No 575/2013 as permitted by the TLAC standard.***

Or. en

#### *Justification*

*Resolution authorities should be able to tailor subordination accordingly in line with each specific firm's requirements.*

#### **Amendment 41**

**Ernest Urtasun, Sven Giegold, Philippe Lamberts**  
on behalf of the Verts/ALE Group

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

#### **Recital 9**

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

(9) The MREL should allow institutions to absorb losses expected in resolution and recapitalise the institution post-resolution. The resolution authorities should, on the basis of the resolution strategy chosen by them, duly justify the imposed level of the MREL in particular as regards the need and the level of the requirement referred to in Article 104a of Directive 2013/36/EU in the recapitalisation amount. As such, that level should be composed of the sum of the amount of losses expected in resolution that correspond to the institution's own funds requirements and the recapitalisation

##### *Amendment*

(9) The MREL should allow institutions to absorb losses expected in resolution and recapitalise the institution post-resolution. The resolution authorities should, on the basis of the resolution strategy chosen by them, duly justify the imposed level of the MREL in particular as regards the need and the level of the requirement referred to in Article 104a of Directive 2013/36/EU in the recapitalisation amount. As such, that level should be composed of the sum of the amount of losses expected in resolution that correspond to the institution's own funds requirements and the recapitalisation

amount that allows the institution post-resolution to meet its own funds requirements necessary for being authorised to pursue its activities under the chosen resolution strategy. The MREL should be expressed as a percentage of the total risk exposure and leverage ratio measures, and institutions should meet simultaneously the levels resulting from the two measurements. The resolution authority should be able to adjust the recapitalisation amounts in *cases duly justified to adequately reflect also increased risks that affect resolvability arising from the resolution group's business model, funding profile and overall risk profile and therefore in such limited circumstances require that the recapitalisation amounts referred to in the first subparagraph of Article 45c(3) and (4) are exceeded.*

amount that allows the institution post-resolution to meet its own funds requirements necessary for being authorised to pursue its activities under the chosen resolution strategy. The MREL should be expressed as a percentage of the total risk exposure and leverage ratio measures, and institutions should meet simultaneously the levels resulting from the two measurements. The resolution authority should be able to adjust *upwards* the recapitalisation amounts in *order to add a safety margin foreseen for covering costs that may arise from implementing either resolution actions or a business reorganisation plan.*

Or. en

## Amendment 42 Syed Kamall

### Proposal for a directive Recital 9

#### *Text proposed by the Commission*

(9) The MREL should allow institutions to absorb losses expected in resolution and recapitalise the institution post-resolution. The resolution authorities should, on the basis of the resolution strategy chosen by them, duly justify the imposed level of the MREL in particular as regards the need and the level of the requirement referred to in Article 104a of Directive 2013/36/EU in the recapitalisation amount. As such, that level should be composed of the sum of the amount of losses expected in resolution that correspond to the institution's own funds requirements and the recapitalisation

#### *Amendment*

(9) The MREL should allow institutions to absorb losses expected *due to write-down or conversion at the point of non-viability or* in resolution and recapitalise the institution post-resolution. The resolution authorities should, on the basis of the resolution strategy chosen by them, duly justify the imposed level of the MREL in particular as regards the need and the level of the requirement referred to in Article 104a of Directive 2013/36/EU in the recapitalisation amount. As such, that level should be composed of the sum of the amount of losses expected *due to the write-down and/or conversion at the point of*

amount that allows the institution post-resolution to meet its own funds requirements necessary for being authorised to pursue its activities under the chosen resolution strategy. The MREL should be expressed as a percentage of the total risk exposure and leverage ratio measures, and institutions should meet simultaneously the levels resulting from the two measurements. ***The resolution authority should be able to adjust the recapitalisation amounts in cases duly justified to adequately reflect also increased risks that affect resolvability arising from the resolution group's business model, funding profile and overall risk profile and therefore in such limited circumstances require that the recapitalisation amounts referred to in the first subparagraph of Article 45c(3) and (4) are exceeded.***

***non-viability or*** in resolution that correspond to the institution's own funds requirements and the recapitalisation amount that allows the institution post-resolution ***both*** to meet its own funds requirements necessary for being authorised to pursue its activities under the chosen resolution strategy, ***and to sustain sufficient market confidence to carry out the activities for which it is authorised.*** The MREL should be expressed as a percentage of the total risk exposure and leverage ratio measures, and institutions should meet simultaneously the levels resulting from the two measurements.

Or. en

#### *Justification*

*This is in line with the EBA Regulatory Technical Standards (2016)*

#### **Amendment 43**

**Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias**

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

#### **Recital 9**

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

(9) The MREL should allow institutions to absorb losses expected in resolution and recapitalise the institution post-resolution. The resolution authorities should, on the basis of the resolution strategy chosen by them, duly justify the imposed level of the MREL in particular as regards the need and the level of the requirement referred to in Article 104a of Directive 2013/36/EU in the

##### *Amendment*

(9) The MREL should allow institutions to absorb losses expected in resolution and recapitalise the institution post-resolution. The resolution authorities should, on the basis of the resolution strategy chosen by them, duly justify the imposed level of the MREL in particular as regards the need and the level of the requirement referred to in Article 104a of Directive 2013/36/EU in the

recapitalisation amount. As such, that level should be composed of the sum of the amount of losses expected in resolution that correspond to the institution's own funds requirements and the recapitalisation amount that allows the institution post-resolution to meet its own funds requirements necessary for being authorised to pursue its activities under the chosen resolution strategy. The MREL should be expressed as a percentage of the total risk exposure and leverage ratio measures, and institutions should meet simultaneously the levels resulting from the two measurements. The resolution authority should be able to adjust the recapitalisation amounts in cases duly justified to adequately reflect also increased risks that affect resolvability arising from the resolution group's business model, funding profile and overall risk profile and therefore in such *limited* circumstances require that the recapitalisation amounts referred to in the first subparagraph of Article 45c(3) and (4) are exceeded.

recapitalisation amount. As such, that level should be composed of the sum of the amount of losses expected in resolution that correspond to the institution's own funds requirements and the recapitalisation amount that allows the institution post-resolution to meet its own funds requirements necessary for being authorised to pursue its activities under the chosen resolution strategy. The MREL should be expressed as a percentage of the total risk exposure and leverage ratio measures, and institutions should meet simultaneously the levels resulting from the two measurements. The resolution authority should be able to adjust the recapitalisation amounts in cases duly justified to adequately reflect also increased risks that affect resolvability arising from the resolution group's business model, funding profile and overall risk profile and therefore in such *necessary* circumstances require that the recapitalisation amounts referred to in the first subparagraph of Article 45c(3) and (4) are exceeded.

Or. en

**Amendment 44**  
**Markus Ferber**

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

*Text proposed by the Commission*

*Amendment*

***(9 a) The entire stock of subordinated instruments issued before the date of adoption of eligibility criteria should be considered eligible for MREL without the need to fulfil the new eligibility criteria introduced with the risk reduction package. Such a grandfathering rule should be required because market participants could not anticipate those changes and would need time to adjust***

*their issuances. The grandfathering should encompass all new eligibility criteria, including netting and set-off rights, as well as acceleration rights.*

Or. en

#### **Amendment 45**

**Ernest Urtasun, Sven Giegold, Philippe Lamberts**  
on behalf of the Verts/ALE Group

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

##### **Recital 10**

*Text proposed by the Commission*

(10) To enhance their resolvability, resolution authorities should be able to impose an institution-specific MREL on G-SIIs in addition to the TLAC minimum requirement laid down in Regulation (EU) No 575/2013. That institution-specific MREL may only be imposed where the TLAC minimum requirement is not sufficient to absorb losses and recapitalise a G-SII under the chosen resolution strategy.

*Amendment*

(10) To enhance their resolvability, resolution authorities should be able to impose an institution-specific MREL on G-SIIs, ***O-SIIs and institutions not considered as less significant in accordance with Council Regulation (EU) No 1024/2013<sup>1a</sup>*** in addition to the TLAC minimum requirement laid down in Regulation (EU) No 575/2013. That institution-specific MREL may only be imposed where the TLAC minimum requirement is ***deemed by competent authorities as*** not sufficient to absorb losses and recapitalise a G-SII under the chosen resolution strategy.

---

*<sup>1a</sup> Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).*

Or. en

#### **Amendment 46**

**Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias**

**Proposal for a directive**  
**Recital 10**

*Text proposed by the Commission*

(10) To enhance their resolvability, resolution authorities should be able to impose an institution-specific MREL on G-SIIs in addition to the TLAC minimum requirement laid down in Regulation (EU) No 575/2013. ***That institution-specific MREL may only be imposed where the TLAC minimum requirement is not sufficient to absorb losses and recapitalise a G-SII under the chosen resolution strategy.***

*Amendment*

(10) To enhance their resolvability, resolution authorities should be able to impose an institution-specific MREL on G-SIIs in addition to the TLAC minimum requirement laid down in Regulation (EU) No 575/2013 ***when deemed necessary by the resolution authority.***

Or. en

**Amendment 47**  
**Syed Kamall**

**Proposal for a directive**  
**Recital 10**

*Text proposed by the Commission*

(10) To enhance their resolvability, resolution authorities should be able to impose an institution-specific MREL on G-SIIs in addition to the TLAC minimum requirement laid down in Regulation (EU) No 575/2013. That institution-specific MREL ***may only*** be imposed where the TLAC minimum requirement is not sufficient to absorb losses and recapitalise a G-SII under the chosen resolution strategy.

*Amendment*

(10) To enhance their resolvability, resolution authorities should be able to impose an institution-specific MREL on G-SIIs in addition to the TLAC minimum requirement laid down in Regulation (EU) No 575/2013. That institution-specific MREL ***should*** be imposed where the TLAC minimum requirement is not sufficient to absorb losses and recapitalise a G-SII under the chosen resolution strategy.

Or. en

*Justification*

*Resolution authorities should have the flexibility to be able to request more MREL from firms, if necessary.*



**Amendment 48**

**Marco Valli**

**Proposal for a directive**

**Recital 10 a (new)**

*Text proposed by the Commission*

*Amendment*

***(10 a) The current resolution framework is still inadequate to ensure resolvability of large institutions. The largest and most complex institutions in the Union still remain too big-to-fail, too-big-to-save and too complex to supervise and resolve. Therefore, it is essential that resolution plans also include a plan for implementing a structural separation of trading activities from the core credit function, so as to ensure resolvability and protect tax payers and small savers.***

Or. en

**Amendment 49**

**Ernest Urtasun, Philippe Lamberts, Sven Giegold**  
on behalf of the Verts/ALE Group

**Proposal for a directive**

**Recital 11**

*Text proposed by the Commission*

*Amendment*

(11) When setting the level of MREL, resolution authorities should consider the degree of systemic relevance of an institution and the potential adverse impact of its failure on the financial stability. They should take into account the need for a level playing field between G-SIIs and other comparable institutions with systemic relevance within the Union. Thus MREL of institutions that are not identified as G-SIIs but the systemic relevance within the Union of which is comparable to the systemic relevance of G-SIIs should not

(11) When setting the level of MREL, resolution authorities should consider the degree of systemic relevance of an institution and the potential adverse impact of its failure on the financial stability. They should take into account the need for a level playing field between G-SIIs and other comparable institutions with systemic relevance within the Union ***such as O-SIIs and institutions not considered as less significant in accordance with Council Regulation (EU) No 1024/2013<sup>1a</sup>***. Thus MREL of institutions that are not identified

diverge *disproportionately* from the level and composition of MREL generally set for G-SIIs..

as G-SIIs but the systemic relevance within the Union of which is comparable to the systemic relevance of G-SIIs should not diverge from the level and composition of MREL generally set for G-SIIs.

---

*<sup>1a</sup> Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).*

Or. en

## **Amendment 50** **Marco Valli**

### **Proposal for a directive** **Recital 11**

#### *Text proposed by the Commission*

(11) When setting the level of MREL, resolution authorities should consider the degree of systemic relevance of an institution and *the potential adverse impact of its failure on the* financial stability. They should take into account the need for a level playing field between G-SIIs and other comparable institutions with systemic relevance within the Union. Thus MREL of institutions that are not identified as G-SIIs but the systemic relevance within the Union of which is comparable to the systemic relevance of G-SIIs should not diverge disproportionately from the level and composition of MREL generally set for G-SIIs..

#### *Amendment*

(11) When setting the level of MREL, resolution authorities should consider the degree of systemic relevance of an institution and *its exposure to illiquid assets and derivatives, which may pose a significant threat to* financial stability. They should take into account the need for a level playing field between G-SIIs and other comparable institutions with systemic relevance within the Union. Thus MREL of institutions that are not identified as G-SIIs but the systemic relevance within the Union of which is comparable to the systemic relevance of G-SIIs should not diverge disproportionately from the level and composition of MREL generally set for G-SIIs.

Or. en

## **Amendment 51**

**Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias**

### **Proposal for a directive**

#### **Recital 11**

*Text proposed by the Commission*

(11) When setting the level of MREL, resolution authorities should consider the degree of systemic relevance of an institution and the potential adverse impact of its failure on the financial stability. They should take into account the need for a level playing field between G-SIIs and other comparable institutions with systemic relevance within the Union. Thus MREL of institutions that are not identified as G-SIIs but the systemic relevance within the Union of which is comparable to the systemic relevance of G-SIIs should not diverge disproportionately from the level and composition of MREL generally set for G-SIIs.

*Amendment*

(11) When setting the level of MREL, resolution authorities should consider the degree of systemic relevance of an institution and the potential adverse impact of its failure on the financial stability. They should take into account the need for a level playing field between G-SIIs and other comparable institutions with systemic relevance within the Union. Thus MREL of institutions that are not identified as G-SIIs but the systemic relevance within the Union of which is comparable to the systemic relevance of G-SIIs should not diverge disproportionately from the level and composition of MREL generally set for G-SIIs ***and may also exceed that level.***

Or. en

## **Amendment 52**

**Syed Kamall**

### **Proposal for a directive**

#### **Recital 12**

*Text proposed by the Commission*

***(12) Similarly to powers conferred to competent authorities by Directive 2013/36/EU, this Directive should allow resolution authorities to require institutions to meet higher levels of MREL while addressing in a more flexible manner any breaches of those levels, in particular by alleviating the automatic effects of those breaches in the form of limitations to the Maximum Distributable Amounts (MDAs). Resolution authorities should be able to***

*Amendment*

***deleted***

*give guidance to institutions to meet additional amounts to cover losses in resolution that are above the level of the own funds requirements as laid down in Regulation (EU) No 575/2013 and Directive 2013/36/EU, and/or to ensure sufficient market confidence in the institution post-resolution. To ensure consistency with Directive 2013/36/EU, guidance to cover additional losses may only be given where the 'capital guidance' has been requested by the competent supervisory authorities in accordance with Directive 2013/36/EU and should not exceed the level requested in that guidance. For the recapitalisation amount, the level requested in the guidance to ensure market confidence should enable the institution to continue to meet the conditions for authorisation for an appropriate period of time, including by allowing the institution to cover the costs related to the restructuring of its activities following resolution. The market confidence buffer should not exceed the combined capital buffer requirement under Directive 2013/36/EU unless a higher level is necessary to ensure that, following the event of resolution, the entity continues to meet the conditions for its authorisation for an appropriate period of time. Where an entity consistently fails to have additional own funds and eligible liabilities as expected under the guidance, the resolution authority should be able to require that the amount of the MREL be increased to cover the amount of the guidance. For the purposes of considering whether there is a consistent failure, the resolution authority should take into account the entity's reporting on the MREL as required by this Directive.*

Or. en

## *Justification*

*MREL guidance is unnecessary given the tools available to resolution authorities in any case.*

### **Amendment 53**

**Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias**

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

#### **Recital 12**

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

(12) Similarly to powers conferred to competent authorities by Directive 2013/36/EU, this Directive should allow resolution authorities to require institutions to meet higher levels of MREL ***while addressing in a more flexible manner any breaches of those levels, in particular by alleviating the automatic effects of those breaches in the form of limitations to the Maximum Distributable Amounts (MDAs). Resolution authorities should be able to give guidance to institutions to meet additional amounts to cover losses in resolution that are above the level of the own funds requirements as laid down in Regulation (EU) No 575/2013 and Directive 2013/36/EU, and/or to ensure sufficient market confidence in the institution post-resolution. To ensure consistency with Directive 2013/36/EU, guidance to cover additional losses may only be given where the 'capital guidance' has been requested by the competent supervisory authorities in accordance with Directive 2013/36/EU and should not exceed the level requested in that guidance. For the recapitalisation amount, the level requested in the guidance to ensure market confidence should enable the institution to continue to meet the conditions for authorisation for an appropriate period of time, including by allowing the institution to cover the costs related to the restructuring of its activities following resolution. The***

##### *Amendment*

(12) Similarly to powers conferred to competent authorities by Directive 2013/36/EU, this Directive should allow resolution authorities to require institutions to meet higher levels of MREL ***when deemed necessary for*** resolution.

*market confidence buffer should not exceed the combined capital buffer requirement under Directive 2013/36/EU unless a higher level is necessary to ensure that, following the event of resolution, the entity continues to meet the conditions for its authorisation for an appropriate period of time. Where an entity consistently fails to have additional own funds and eligible liabilities as expected under the guidance, the resolution authority should be able to require that the amount of the MREL be increased to cover the amount of the guidance. For the purposes of considering whether there is a consistent failure, the resolution authority should take into account the entity's reporting on the MREL as required by this Directive.*

Or. en

#### **Amendment 54**

**Ernest Urtasun, Sven Giegold, Philippe Lamberts**  
on behalf of the Verts/ALE Group

#### **Proposal for a directive** **Recital 12**

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

(12) Similarly to powers conferred to competent authorities by Directive 2013/36/EU, this Directive should allow resolution authorities to require institutions to meet higher levels of MREL while addressing in a more flexible manner any breaches of those levels, in particular by alleviating the automatic effects of those breaches in the form of limitations to the Maximum Distributable Amounts (MDAs). Resolution authorities should be able to give guidance to institutions to meet additional amounts to cover losses in resolution that are above the level of the own funds requirements as laid down in Regulation (EU) No 575/2013 and

##### *Amendment*

(12) Similarly to powers conferred to competent authorities by Directive 2013/36/EU, this Directive should allow resolution authorities to require institutions to meet higher levels of MREL while addressing in a more flexible manner any breaches of those levels, in particular by alleviating the automatic effects of those breaches in the form of limitations to the Maximum Distributable Amounts (MDAs). Resolution authorities should be able to give guidance to institutions to meet additional amounts to cover losses in resolution that are above the level of the own funds requirements as laid down in Regulation (EU) No 575/2013 and

Directive 2013/36/EU, and/or to ensure sufficient market confidence in the institution post-resolution. ***To ensure consistency with Directive 2013/36/EU, guidance to cover additional losses may only be given where the 'capital guidance' has been requested by the competent supervisory authorities in accordance with Directive 2013/36/EU and should not exceed the level requested in that guidance.*** For the recapitalisation amount, the level requested in the guidance to ensure market confidence should enable the institution to continue to meet the conditions for authorisation for an appropriate period of time, ***including by allowing the institution to cover the costs related to the restructuring of its activities following resolution. The market confidence buffer should not exceed the combined capital buffer requirement under Directive 2013/36/EU unless a higher level is necessary to ensure that, following the event of resolution, the entity continues to meet the conditions for its authorisation for an appropriate period of time.*** Where an entity consistently fails to have additional own funds and eligible liabilities as expected under the guidance, ***the resolution authority should be able to require that the amount of the MREL be increased to cover the amount of the*** guidance. For the purposes of considering whether there is a consistent failure, the resolution authority should take into account the entity's reporting on the MREL as required by this Directive.

Directive 2013/36/EU, and/or to ensure sufficient market confidence in the institution post-resolution. For the recapitalisation amount, the level requested in the guidance to ensure market confidence should enable the institution to continue to meet the conditions for authorisation for an appropriate period of time. Where an entity consistently fails to have additional own funds and eligible liabilities as expected under the guidance, ***it should be subject to partial limitations of the MDAs. Whenever the failure of an entity to have additional own funds and eligible liabilities as expected under the guidance lasts longer than six months, the relevant authorities should exercise their powers to address breaches to the MREL.*** For the purposes of considering whether there is a consistent failure, the resolution authority should take into account the entity's reporting on the MREL as required by this Directive.

Or. en

## **Amendment 55**

**Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias**

### **Proposal for a directive**

#### **Recital 14**

(14) Institutions that are not resolution entities should comply with the MREL at individual level. Loss absorption and recapitalisation needs of those institutions should be generally provided by their respective resolution entities through the acquisition by resolution entities of eligible liabilities issued by those institutions and their write-down or conversion into instruments of ownership at the point where those institutions are no longer viable. As such, the MREL applicable to institutions that are not resolution entities should be applied together and consistently with the requirements applicable to resolution entities. That should allow resolution authorities to resolve a resolution group without placing certain of its subsidiary entities in resolution, thus avoiding potentially disruptive effects on the market. ***Subject to the agreement of the resolution authorities of the resolution entity and of its subsidiary, it should be possible to replace the issuance of eligible liabilities to resolution entities with collateralised guarantees between the resolution entity and its subsidiaries, that can be triggered when the timing conditions equivalent to those allowing the write down or conversion of eligible liabilities are met.*** The resolution authorities of subsidiaries of a resolution entity should also be able to fully waive the application of the MREL applicable to institutions that are not resolution entities if both the resolution entity and its subsidiaries are established in the same Member State. The application of the MREL to institutions that are not resolution entities should comply with the chosen resolution strategy, in particular it should not change the ownership relationship between institutions and their resolution group after those institutions have been recapitalised.

(14) Institutions that are not resolution entities should comply with the MREL at individual level. Loss absorption and recapitalisation needs of those institutions should be generally provided by their respective resolution entities through the acquisition by resolution entities of eligible liabilities issued by those institutions and their write-down or conversion into instruments of ownership at the point where those institutions are no longer viable. As such, the MREL applicable to institutions that are not resolution entities should be applied together and consistently with the requirements applicable to resolution entities. That should allow resolution authorities to resolve a resolution group without placing certain of its subsidiary entities in resolution, thus avoiding potentially disruptive effects on the market. The resolution authorities of subsidiaries of a resolution entity should also be able to fully waive the application of the MREL applicable to institutions that are not resolution entities if both the resolution entity and its subsidiaries are established in the same Member State. The application of the MREL to institutions that are not resolution entities should comply with the chosen resolution strategy, in particular it should not change the ownership relationship between institutions and their resolution group after those institutions have been recapitalised.



**Amendment 56**  
**Barbara Kappel**

**Proposal for a directive**  
**Recital 14**

*Text proposed by the Commission*

(14) Institutions that are *not* resolution entities should comply with the MREL at *individual* level. Loss absorption and recapitalisation needs of those institutions should be generally provided by their respective resolution entities through the acquisition by resolution entities of eligible liabilities issued by those institutions and their write-down or conversion into instruments of ownership at the point where those institutions are no longer viable. As such, the MREL applicable to institutions that are not resolution entities should be applied together and consistently with the requirements applicable to resolution entities. That should allow resolution authorities to resolve a resolution group without placing certain of its subsidiary entities in resolution, thus avoiding potentially disruptive effects on the market. Subject to the agreement of the resolution authorities of the resolution entity and of its subsidiary, it should be possible to replace the issuance of eligible liabilities to resolution entities with collateralised guarantees between the resolution entity and its subsidiaries, that can be triggered when the timing conditions equivalent to those allowing the write down or conversion of eligible liabilities are met. The resolution authorities of subsidiaries of a resolution entity should also be able to fully waive the application of the MREL applicable to institutions that are not resolution entities if both the resolution entity and its subsidiaries are established in the same

*Amendment*

(14) Institutions that are *material subsidiaries of* resolution entities should comply with the MREL at *the consolidated level of the relevant material sub-group. The overriding objective of requiring this MREL is to ensure there is confidence in the resolution strategy of the group, consistent with the Financial Stability Board's ('FSB') TLAC Standard, as set out under the FSB's 'Principles on Loss-absorbing and Recapitalization Capacity of G-SIBs in Resolution', i.e. the TLAC Term Sheet.* Loss absorption and recapitalisation needs of those institutions should be generally provided by their respective resolution entities through the acquisition by resolution entities of eligible liabilities issued by those institutions and their write-down or conversion into instruments of ownership at the point where those institutions are no longer viable. As such, the MREL applicable to institutions that are not resolution entities should be applied together and consistently with the requirements applicable to resolution entities. That should allow resolution authorities to resolve a resolution group without placing certain of its subsidiary entities in resolution, thus avoiding potentially disruptive effects on the market. Subject to the agreement of the resolution authorities of the resolution entity and of its subsidiary, it should be possible to replace the issuance of eligible liabilities to resolution entities with collateralised guarantees between the resolution entity and its subsidiaries, that

Member State. The application of the MREL to institutions that are not resolution entities should comply with the chosen resolution strategy, in particular it should not change the ownership relationship between institutions and their resolution group after those institutions have been recapitalised.

can be triggered when the timing conditions equivalent to those allowing the write down or conversion of eligible liabilities are met. The resolution authorities of subsidiaries of a resolution entity should also be able to fully waive the application of the MREL applicable to institutions that are not resolution entities if both the resolution entity and its subsidiaries are established in the same Member State. The application of the MREL to institutions that are not resolution entities should comply with the chosen resolution strategy, in particular it should not change the ownership relationship between institutions and their resolution group after those institutions have been recapitalised.

Or. en

#### **Amendment 57**

**Ernest Urtasun, Sven Giegold, Philippe Lamberts**  
on behalf of the Verts/ALE Group

#### **Proposal for a directive** **Recital 16**

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

(16) Any breaches of the TLAC minimum requirement and of the MREL should be appropriately addressed and remedied by competent and resolution authorities. Given that a breach of those requirements could constitute an impediment to institution or group resolvability, the existing procedures to remove impediments to resolvability **should** be shortened to address any breaches of the requirements expediently. Resolution authorities should also be able to require institutions to modify the maturity profiles of eligible instruments and items and to prepare and implement plans to restore the level of those

##### *Amendment*

(16) Any breaches of the TLAC minimum requirement and of the MREL should be appropriately addressed and remedied by competent and resolution authorities. Given that a breach of those requirements could constitute an impediment to institution or group resolvability, the existing procedures to remove impediments to resolvability **could** be shortened to address any breaches of the requirements expediently. Resolution authorities should also be able to require institutions to modify the maturity profiles of eligible instruments and items and to prepare and implement plans to restore the level of those requirements **within a pre-**

requirements.

*specified timeframe.*

Or. en

## **Amendment 58**

**Syed Kamall**

### **Proposal for a directive**

#### **Recital 18**

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

(18) The requirement to include a contractual recognition of the effects of the bail-in tool in agreements or instruments creating liabilities governed by the laws of third countries should ensure that those liabilities can be bailed in in the event of resolution. Unless and until statutory recognition frameworks to enable effective cross-border resolution are adopted in all third country jurisdictions, contractual arrangements, when properly drafted and widely adopted, should offer a workable solution. Even with statutory recognition frameworks in place, contractual recognition arrangements should help to reinforce the legal certainty and predictability of cross-border recognition of resolution actions. There might be instances, however, where it is impracticable for institutions to include those contractual terms in agreements or instruments creating certain liabilities, in particular ***liabilities that are not excluded from the bail-in tool under Directive 2014/59/EU, covered deposits or own funds instruments. It is in particular impracticable for institutions to include in agreements or instruments creating liabilities contractual terms on the recognition of the effects of the bail-in tool, where those contractual terms are unlawful in the third countries concerned or where institutions do not have the bargaining power to impose those contractual terms. Resolution authorities***

##### *Amendment*

(18) The requirement to include a contractual recognition of the effects of the bail-in tool in agreements or instruments creating liabilities governed by the laws of third countries should ensure that those liabilities can be bailed in in the event of resolution. Unless and until statutory recognition frameworks to enable effective cross-border resolution are adopted in all third country jurisdictions, contractual arrangements, when properly drafted and widely adopted, should offer a workable solution. Even with statutory recognition frameworks in place, contractual recognition arrangements should help to reinforce the legal certainty and predictability of cross-border recognition of resolution actions. There might be instances, however, where it is impracticable for institutions to include those contractual terms in agreements or instruments creating certain liabilities. ***For example, institutions may, in particular, find it impracticable to include the contractual recognition language in liabilities where relevant third country authorities have informed the institution in writing they will not allow it to include contractual recognition language in agreements or instruments creating liabilities governed by the law of that third country; where it is illegal in the third country for the institution to include contractual recognition language in agreements or instruments creating***

*should therefore be able to waive the application of the requirement to include those contractual terms where those contractual terms would entail disproportionate costs for institutions and the resulting liabilities would not provide significant loss absorbing and recapitalisation capacity in resolution. This waiver should however not be relied upon where a number of agreements or liabilities together collectively provide significant loss absorbing and recapitalisation capacity in resolution.* In addition, to ensure that the resolvability of institutions is not affected, liabilities *benefitting from waivers* should not be eligible for MREL.

*liabilities governed by the laws of that third country; where the creation of liabilities is governed by international protocols which the institution has in practice no power to amend; where contractual terms are imposed on the institution by virtue of its membership and participation terms of non-EU bodies, whose use is on standard terms for all members and impractical to amend bilaterally; or where the liability which would be subject to the contractual recognition requirement is contingent on a breach of the contract. Institutions should be able to determine that it is legally or otherwise impracticable to include the contractual terms in liabilities which otherwise fall within the scope of the contractual recognition requirement and that the failure to include the relevant terms does not impede the resolvability of the firm. The competent authority or resolution authority may assess an institution's determination that insertion of this contractual term is impracticable, and require inclusion of the contractual terms if it disagrees with the assessment or considers the failure to include the contractual term adversely affects the resolvability of the firm.* In addition, to ensure that the resolvability of institutions is not affected, liabilities *which fail to include the contractual recognition provisions* should not be eligible for MREL.

Or. en

#### *Justification*

*In certain circumstances it will not be practicable to include contractual recognition language in contracts due to interalia legal requirements in third countries.*

**Amendment 59**  
**Tom Vandenkendelaere**

**Proposal for a directive**  
**Recital 18 a (new)**

*Text proposed by the Commission*

*Amendment*

***(18 a) The inclusion, in contracts governed by third country law, of clauses that recognize bail-in of liabilities under the contract, may facilitate the resolution of an institution. However, an overly broad requirement for such clauses in contracts governed by third country law would be highly detrimental for European institutions as regards access to third country markets without improving the resolvability of these institutions. It is therefore of paramount importance to clarify that the contractual recognition clauses need not be included in contracts governed by third country law where this would be counterproductive, or would result in disproportionate and /or unreasonable burdens or effects for the institutions and their counterparties, or where it would be simply impractical. Contractual recognition clauses would mainly be apposite in contracts regarding payment liabilities specifically designated to absorb losses in resolution (MREL eligible liabilities) and for other such payment liabilities where the resolution authority considers that the possibility for bail-in is necessary to avoid a potential impediment to resolution. This would also be fully in line with the Financial Stability Board's Principles for Cross-border Effectiveness of Resolution Action. Conversely, it is not relevant to include contractual recognition clauses in contracts that give rise to liabilities that, if bailed-in, would not contribute to the resolvability of the institution. Thus, the requirement for such clauses should not apply to contracts that only give rise to contingent liabilities. Moreover, the requirement for a contractual recognition clause would not be apposite for, e.g., liabilities governed by international standard terms, terms prescribed by the***

*counterparty, or predetermined rules and regulations. Examples of such agreements include contracts regarding trade finance instruments such as guarantees or letters of credit, warranties (including tender and performance bonds and associated advance payment and retention guarantees), other guarantees that are based on non-negotiable terms prescribed by the counterparty or pursuant to predetermined international standards and practices, and agreements with third country market infrastructures. In all of these cases the institution will not be able to impose contractual recognition clauses on the counterparty. In addition, it may in many cases be unduly burdensome for institutions to include contractual recognition clauses in contracts with third country counterparties, for example small and medium sized enterprises or public entities in third countries. If the contract with a third country counterparty gives rise to liabilities that would not contribute to their solvability of the institution, it would also be disproportionate to require contractual recognition clauses.*

Or. en

#### *Justification*

*To provide purpose and aim for Article 55 to be applied to MREL instruments and to establish the principle to avoid Article 55 to apply to liabilities where its impact would be counterproductive and disproportionate with the resolution objectives.*

**Amendment 60**  
**Marco Valli**

**Proposal for a directive**  
**Recital 19**

*Text proposed by the Commission*

*Amendment*

**(19) In order to preserve financial stability, it is important that competent**

**deleted**

*authorities are able to remedy the deterioration of an institution's financial and economic situation before that institution reaches a point at which authorities have no other alternative than to resolve it. To that end, competent authorities should be granted appropriate early intervention powers. Early intervention powers should include the power to suspend, for the minimum time necessary, certain contractual obligations. That power to suspend should be framed accurately and should be exercised only where that is necessary to establish whether early intervention measures are needed or to determine whether the institution is failing or likely to fail. That power to suspend should however not apply to obligations in relation to the participation in systems designated under Directive 98/26/EC of the European Parliament and of the Council<sup>18</sup>, central counterparties (CCPs) and central banks including third country CCPs recognised by the European Capital Markets Authority ('ESMA'). It should also not apply to covered deposits. Early intervention powers should comprise the powers already provided for in Directive 2013/36/EU for circumstances other than those considered to be early intervention as well as for situations in which it is considered to be necessary to restore the financial soundness of an institution.*

---

<sup>18</sup> *Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (OJ L 166, 11.6.1998, p. 45).*

Or. en

**Amendment 61**  
**Syed Kamall**

**Proposal for a directive**  
**Recital 19**

*Text proposed by the Commission*

*Amendment*

**(19) In order to preserve financial stability, it is important that competent authorities are able to remedy the deterioration of an institution's financial and economic situation before that institution reaches a point at which authorities have no other alternative than to resolve it. To that end, competent authorities should be granted appropriate early intervention powers. Early intervention powers should include the power to suspend, for the minimum time necessary, certain contractual obligations. That power to suspend should be framed accurately and should be exercised only where that is necessary to establish whether early intervention measures are needed or to determine whether the institution is failing or likely to fail. That power to suspend should however not apply to obligations in relation to the participation in systems designated under Directive 98/26/EC of the European Parliament and of the Council<sup>18</sup>, central counterparties (CCPs) and central banks including third country CCPs recognised by the European Capital Markets Authority ('ESMA'). It should also not apply to covered deposits. Early intervention powers should comprise the powers already provided for in Directive 2013/36/EU for circumstances other than those considered to be early intervention as well as for situations in which it is considered to be necessary to restore the financial soundness of an institution.**

*deleted*

---

<sup>18</sup> Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (OJ L 166, 11.6.1998, p. 45).



*Justification*

*The ECR has strong concerns about the moratoria, as proposed, given it contradicts the international agreement and could impact financial stability, due to resolution triggers, bank runs etc.*

**Amendment 62****Syed Kamall****Proposal for a directive****Recital 19***Text proposed by the Commission*

(19) In order to preserve financial stability, ***it is important that competent*** authorities are able to remedy the deterioration of an institution's financial and economic situation before that institution reaches a point at which authorities have no other alternative than to resolve it. To that end, ***competent*** authorities ***should be granted*** appropriate ***early intervention*** powers. ***Early intervention powers should include the power*** to suspend, for ***the minimum time necessary***, certain contractual obligations. That power to suspend should be framed accurately and should be exercised only where that is necessary ***to establish whether early intervention measures are needed or to determine whether the institution is failing or likely to fail***. That power to suspend should however not apply to obligations in relation to the participation in systems designated under Directive 98/26/EC of the European Parliament and of the Council<sup>18</sup>, central counterparties (CCPs) and central banks including third country CCPs recognised by the European Capital Markets Authority ('ESMA'). It should also not apply to covered deposits. ***Early intervention powers should comprise the powers already provided for in*** Directive

*Amendment*

(19) In order to preserve financial stability, ***Member States should be able to ensure that resolution*** authorities are able to remedy the deterioration of an institution's financial and economic situation ***after determination that the institution is failing or likely to fail and*** before that institution reaches a point at which authorities have no other alternative than to resolve it. To that end, ***resolution*** authorities ***should be able to have available to them*** appropriate powers to suspend, for ***a maximum of two working days in total***, certain contractual obligations. That power to suspend should be framed accurately and should be exercised only where that is necessary ***for determination of point (b) of Article 32(1)***. That power to suspend should however not apply to obligations in relation to the participation in systems designated under Directive 98/26/EC of the European Parliament and of the Council<sup>18</sup>, central counterparties (CCPs) and central banks including third country CCPs recognised by the European Capital Markets Authority ('ESMA'). It should also not apply to covered deposits ***and financial contracts as defined in*** Directive 2014/59/EU.

***2013/36/EU for circumstances other than those considered to be early intervention as well as for situations in which it is considered to be necessary to restore the financial soundness of an institution.***

---

<sup>18</sup> Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (OJ L 166, 11.6.1998, p. 45).

---

<sup>18</sup> Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (OJ L 166, 11.6.1998, p. 45).

Or. en

### *Justification*

*This amendment maintains the internationally agreed 2 days and ensures financial stability as it prevents risks to the economy by excluding financial contracts (as defined under BRRD Art 2 (100) and covered deposits. However, it should not be a substitute for thorough resolution planning by firms.*

### **Amendment 63 Marco Valli**

#### **Proposal for a directive Recital 19 a (new)**

*Text proposed by the Commission*

*Amendment*

***(19 a) Considering the disruptive impact on small investors and savers of the first application of the resolution tools, there is a need to revise the requirement for a minimum contribution for loss absorption and recapitalisation so as to ensure that bank losses are borne only by those investors that have sufficient loss-bearing capacity and can exert real market discipline on banks. The protection of retail savers and investors is essential to avoid adverse effects on socio-economic stability and preserve the general confidence in the banking sector.***

Or. en

**Amendment 64**  
**Syed Kamall**

**Proposal for a directive**  
**Recital 20**

*Text proposed by the Commission*

*Amendment*

***(20) It is in the interest of an efficient resolution, and in particular in the interest of avoiding conflicts of jurisdiction, that no normal insolvency proceedings for the failing institution be opened or continued while the resolution authority is exercising its resolution powers or applying the resolution tools, except at the initiative of, or with the consent of, the resolution authority. It is useful and necessary to suspend, for a limited period, certain contractual obligations so that the resolution authority has sufficient time to carry out the valuation and put into practice the resolution tools. That power should be accurately framed and should be exercised only for the minimum time necessary for the valuation or to put resolution tools into practice. That power should however not apply to covered deposits or to obligations in relation to the participation in systems designated under Directive 98/26/EC, CCPs and central banks, including third country CCPs recognised by ESMA. Directive 98/26/EC reduces the risk associated with participation in payment and securities settlement systems, in particular by reducing disruption in the event of the insolvency of a participant in such a system. To ensure that those protections apply appropriately in crisis situations, whilst maintaining appropriate certainty for operators of payment and securities systems and other market participants, Directive 2014/59/EU should be amended to provide that a crisis prevention measure or a crisis management measure***

***deleted***

*should not as such be deemed to be insolvency proceedings within the meaning of Directive 98/26/EC, provided that the substantive obligations under the contract continue to be performed. However, nothing in Directive 2014/59/EU should prejudice the operation of a system designated under Directive 98/26/EC or the right to collateral security guaranteed by that same Directive.*

Or. en

### *Justification*

*A pre-resolution moratorium is problematic due to the increased capital requirements that it would entail and inconsistency with internationally agreed standards.*

## **Amendment 65** **Syed Kamall**

### **Proposal for a directive** **Recital 20**

#### *Text proposed by the Commission*

(20) It is in the interest of an efficient resolution, and in particular in the interest of avoiding conflicts of jurisdiction, that no normal insolvency proceedings for the failing institution be opened or continued while the resolution authority is exercising its resolution powers or applying the resolution tools, except at the initiative of, or with the consent of, the resolution authority. It *is* useful **and necessary** to suspend, for a **limited period**, certain contractual obligations so that the resolution authority has sufficient time to carry out the valuation and put into practice the resolution tools. That power should be accurately framed and should be exercised only for the minimum time necessary for the valuation or to put resolution tools into practice. That power should however not

#### *Amendment*

(20) It is in the interest of an efficient resolution, and in particular in the interest of avoiding conflicts of jurisdiction, that no normal insolvency proceedings for the failing institution be opened or continued while the resolution authority is exercising its resolution powers or applying the resolution tools, except at the initiative of, or with the consent of, the resolution authority. It **may be** useful to suspend, for a **maximum of two working days in total**, certain contractual obligations so that the resolution authority has sufficient time to carry out the valuation and put into practice the resolution tools. That power should be accurately framed and should be exercised only for the minimum time necessary for the valuation or to put resolution tools into practice. That power should however not

apply to covered deposits or to obligations in relation to the participation in systems designated under Directive 98/26/EC, CCPs and central banks, including third country CCPs recognised by ESMA. Directive 98/26/EC reduces the risk associated with participation in payment and securities settlement systems, in particular by reducing disruption in the event of the insolvency of a participant in such a system. To ensure that those protections apply appropriately in crisis situations, whilst maintaining appropriate certainty for operators of payment and securities systems and other market participants, Directive 2014/59/EU should be amended to provide that a crisis prevention measure or a crisis management measure should not as such be deemed to be insolvency proceedings within the meaning of Directive 98/26/EC, provided that the substantive obligations under the contract continue to be performed. However, nothing in Directive 2014/59/EU should prejudice the operation of a system designated under Directive 98/26/EC or the right to collateral security guaranteed by that same Directive.

apply to covered deposits *and financial contracts as defined in Directive 2014/59/EU* or to obligations in relation to the participation in systems designated under Directive 98/26/EC, CCPs and central banks, including third country CCPs recognised by ESMA. Directive 98/26/EC reduces the risk associated with participation in payment and securities settlement systems, in particular by reducing disruption in the event of the insolvency of a participant in such a system. To ensure that those protections apply appropriately in crisis situations, whilst maintaining appropriate certainty for operators of payment and securities systems and other market participants, Directive 2014/59/EU should be amended to provide that a crisis prevention measure or a crisis management measure should not as such be deemed to be insolvency proceedings within the meaning of Directive 98/26/EC, provided that the substantive obligations under the contract continue to be performed. However, nothing in Directive 2014/59/EU should prejudice the operation of a system designated under Directive 98/26/EC or the right to collateral security guaranteed by that same Directive.

Or. en

#### *Justification*

*This alternative amendment aims to prevent unintended consequences to the economy by proposing a two day limit (in line with the international agreement) and the exclusion of financial contracts.*

**Amendment 66**  
**Barbara Kappel**

**Proposal for a directive**  
**Recital 27 a (new)**

***(27 a) The inclusion, in contracts governed by third country law, of clauses that recognize bail-in of liabilities under the contract, may facilitate the resolution of an institution. However, an overly broad requirement for such clauses in contracts governed by third country law would be highly detrimental for European institutions as regards access to third country markets without improving the resolvability of these institutions. It is therefore of paramount importance to clarify that the contractual recognition clauses need not be included in contracts governed by third country law where this would be counterproductive, or would result in disproportionate and /or unreasonable burdens or effects for the institutions and their counterparties, or where it would be simply impractical. Contractual recognition clauses would mainly be apposite in contracts regarding payment liabilities specifically designated to absorb losses in resolution (MREL eligible liabilities) and in such other payment liabilities where the resolution authority considers that the possibility for bail-in is necessary to avoid a potential impediment to resolution. This would also be fully in line with the Financial Stability Board's Principles for Cross-border Effectiveness of Resolution Action. Conversely, it is not relevant to include contractual recognition clauses in contracts that give rise to liabilities that, if bailed-in, would not contribute to the resolvability of the institution. Thus, the requirement for such clauses should not apply to contracts that only give rise to contingent liabilities. Moreover, the requirement for a contractual recognition clause would not be apposite for, e.g., liabilities governed by international standard terms, terms prescribed by the counterparty, or predetermined rules and regulations. Examples of such agreements***

*include contracts regarding trade finance instruments such as guarantees or letters of credit, warranties (including tender and performance bonds and associated advance payment and retention guarantees), other guarantees that are based on non-negotiable terms prescribed by the counterparty or pursuant to predetermined international standards and practices, and agreements with third country market infrastructures. In all of these cases the institution will not be able to impose contractual recognition clauses on the counterparty. In addition, it may in many cases be unduly burdensome for institutions to include contractual recognition clauses in contracts with third country counterparties, for example small and medium sized enterprises or public entities in third countries. If the contract with a third country counterparty gives rise to liabilities that would not contribute to the resolvability of the institution, it would also be disproportionate to require contractual recognition clauses.*

Or. en

**Amendment 67**

**Ernest Urtasun, Sven Giegold, Philippe Lamberts**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Recital 27 a (new)**

*Text proposed by the Commission*

*Amendment*

*(27 a) The entry into force of this Directive signifies a change to the regulatory environment which may affect the rules of the 2013 Banking Communication. It is therefore appropriate that the Commission urgently reviews the 2013 Banking Communication to adapt its standards to the provisions of this Directive and to*

*eliminate existing inconsistencies.*

Or. en

**Amendment 68**  
**Gabriel Mato, Danuta Maria Hübner**

**Proposal for a directive**  
**Recital 27 a (new)**

*Text proposed by the Commission*

*Amendment*

***(27 a) Member States should ensure that the national insolvency laws correctly reflect the loss absorption hierarchy under resolution, avoiding major mismatches between the resolution and the insolvency legal frameworks and ensuring that the regulatory capital instruments absorb losses both in resolution and insolvency before the rest of subordinated claims.***

Or. en

**Amendment 69**  
**Peter Simon**

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

*Present text*

*Amendment*

(2) ‘credit institution’ means a credit institution as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013, not including the entities referred to in Article 2(5) of Directive 2013/36/EU;

***1 a. In Article 2(1), point (2) is replaced by the following:***

"(2) ‘credit institution’ means a credit institution as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013, not including the entities referred to in Article 2(5), **Article 2(5a) and Article 2(5b)** of Directive 2013/36/EU;"



(<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0059&from=EN>)

*Justification*

*Alignment with proposed changes of Directive 2013/36/EU.*

**Amendment 70**  
**Burkhard Balz**

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

*Present text*

(2) ‘credit institution’ means a credit institution as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013, not including the entities referred to in **Article 2(5)** of Directive 2013/36/EU;

*Amendment*

**1 a. In Article 2(1), point (2) is replaced by the following:**

"(2) ‘credit institution’ means a credit institution as defined in point (1) of Article 4(1) of Regulation (EU) No 575/2013, not including the entities referred to in **Articles 2(5) and 2 (5a)** of Directive 2013/36/EU;"

(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)

**Amendment 71**  
**Andrea Cozzolino, Luigi Morgano**

**Proposal for a directive**  
**Article 1 – paragraph 1 a (new)**  
Directive 2014/59/EU  
Article 2 – paragraph 1 – point 28

*Present text*

‘(28) ‘extraordinary public financial support’ means **State aid within the**

*Amendment*

**1 a. In Article 2(1), point 28 is replaced by the following:**

"‘(28) ‘extraordinary public financial support’ means any public financial

*meaning of Article 107(1) TFEU, or any other public financial support at supra-national level, which, if provided for at national level, would constitute State aid, that is provided in order to preserve or restore the viability, liquidity or solvency of an institution or entity referred to in point (b), (c) or (d) of Article 1(1) or of a group of which such an institution or entity forms part;*

*support necessary for financial stability reasons. Such support shall not necessarily constitute State aid in the meaning of Article 107(1) TFEU."*

Or. en

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)*

**Amendment 72**  
**Barbara Kappel**

**Proposal for a directive**  
**Article 1 – paragraph 3 a (new)**  
Directive 2014/59/EU  
Article 2 – paragraph 1 – point 82 a (new)

*Text proposed by the Commission*

*Amendment*

**3 a. In Article 2(1) the following point is added:**

**"(82a) 'Material subsidiary' means a subsidiary as set out under point 134 of Article 4(1) of Regulation (EU) No 575/2013."**

Or. en

*Justification*

*Given the clarity that is needed within the BRRD regarding the application of requirements to material subsidiaries, and the references that are made to third country resolution entities and groups, it is important to ensure that definitions are set out for these terms. The proposed amendments here are consistent with those proposed under the CRR.*

**Amendment 73**  
**Barbara Kappel**

**Proposal for a directive**  
**Article 1 – paragraph 4**  
Directive 2014/59/EU  
Article 2 – paragraph 1 – point 83b

*Text proposed by the Commission*

(83b) 'resolution group' means a resolution entity and its subsidiaries that are not resolution entities themselves **and that are not** subsidiaries of **another resolution entity**;

*Amendment*

(83b) 'resolution group' means:

- (a) a resolution entity and its subsidiaries that are not:
  - (i) resolution entities themselves,
  - (ii) subsidiaries of **other resolution entities, or**
  - (iii) **entities established in a third country that are not included in the resolution group in accordance with the resolution plan and their subsidiaries;**
- (b) **credit institutions affiliated to a central body, the central body and any institution under the control of the central body when at least one of those entities is a resolution entity. When the resolution entity of the resolution group is the central body of a network or a cooperative group, the credit institutions permanently affiliated to this central body are also part of the resolution group.**

Or. en

*Justification*

*The current definition of resolution group does not accommodate the structure of certain cooperative groups where affiliates within the resolution group are not subsidiaries of the central body resolution entity, but rather form a group on the basis of contracts or a legal solidarity mechanism. The definition should therefore be changed in order to accommodate such structures by including a reference to credit institutions permanently affiliated to the central body when the resolution entity is the central body of a cooperative bank.*

## Amendment 74

Pedro Silva Pereira, Pervenche Berès, Jonás Fernández, Luigi Morgano, Andrea Cozzolino, Roberto Gualtieri, Doru-Claudian Frunzulică, Costas

### Proposal for a directive

#### Article 1 – paragraph 4

Directive 2014/59/EU

Article 2 – paragraph 1 – point 83b

#### *Text proposed by the Commission*

(83b) 'resolution group' means a resolution entity and its subsidiaries that are not resolution entities themselves **and that are not** subsidiaries of **another** resolution entity;

#### *Amendment*

(83b) 'resolution group' means:

- (a) a resolution entity and its subsidiaries that are not:
  - (i) resolution entities themselves;
  - (ii) subsidiaries of **other resolution entities; or**
  - (iii) **entities established in a third country that are not included in the resolution group in accordance with the resolution plan and their subsidiaries;**
- (b) **credit institutions affiliated to a central body, the central body and any institution under the control of the central body when at least one of those entities is a resolution entity.**

Or. en

#### *Justification*

*The definition of a resolution group should exclude third-country subsidiaries that are points of entry themselves since these subsidiaries will be treated separately from the rest of the group in the event of resolution. The definition of resolution group should also accommodate the structure of cooperative groups where affiliated institutions are not subsidiaries of the central body – that is a resolution entity.*

## Amendment 75

Thierry Cornillet

**Proposal for a directive**

**Article 1 – paragraph 4**

Directive 2014/59/EU

Article 2 – paragraph 1 – point 83b

*Text proposed by the Commission*

(83b) 'resolution group' means a resolution entity and its subsidiaries that are not resolution entities themselves and that are not subsidiaries of another resolution entity;

*Amendment*

(83b) 'resolution group' means a resolution entity and its subsidiaries that are not resolution entities themselves and that are not subsidiaries of another resolution entity; ***when the resolution entity of the resolution group is the central body of a network or a cooperative group, the credit institutions permanently affiliated to this central body are also part of the resolution group;***

Or. en

*Justification*

*The aim is to recognise the structure of certain cooperative groups where affiliates within the resolution group are not subsidiaries of the central body resolution entity. The diversity of the EU banking sector should be preserved and recognised.*

**Amendment 76**

**Anne Sander, Alain Cadec, Alain Lamassoure**

**Proposal for a directive**

**Article 1 – paragraph 4**

Directive 2014/59/EU

Article 2 – paragraph 1 – point 83b

*Text proposed by the Commission*

(83b) 'resolution group' means a resolution entity and its subsidiaries that are not resolution entities themselves and that are not subsidiaries of another resolution entity;

*Amendment*

(83b) 'resolution group' means a resolution entity and its subsidiaries that are not resolution entities themselves and that are not subsidiaries of another resolution entity; ***when the resolution entity of the resolution group is the central body of a network or a cooperative group, the credit institutions permanently affiliated to this central body are also part of the resolution group.***

*Justification*

*The definition of resolution group needs to take into account the structure of cooperative groups where affiliates within the resolution group are not subsidiaries of the central body resolution entity but mother companies of the central body.*

**Amendment 77**

**Gabriel Mato, Danuta Maria Hübner**

**Proposal for a directive****Article 1 – paragraph 4**

Directive 2014/59/EU

Article 2 – paragraph 1 – point 83b

*Text proposed by the Commission*

(83b) 'resolution group' means a resolution entity and its subsidiaries that are not resolution entities themselves **and that are not** subsidiaries of **another** resolution **entity**;

*Amendment*

(83b) 'resolution group' means a resolution entity and its subsidiaries that are not:

- (i)** resolution entities themselves; **or**
- (ii)** subsidiaries of **other** resolution **entities**; **or**
- (iii)** **entities established in a third country that are not included in the resolution group in accordance with the resolution plan and their subsidiaries.**

*Justification*

*The definition of a 'resolution group' should exclude third-country subsidiaries that are points of entry themselves since these will be treated separately from the rest of the group in the event of resolution.*

**Amendment 78**

**Luigi Morgano, Andrea Cozzolino**

**Proposal for a directive**  
**Article 1 – paragraph 4 a (new)**  
Directive 2014/59/EU  
Article 2 – paragraph 1 – point 110 a (new)

*Text proposed by the Commission*

*Amendment*

**4a. In Article 2(1), the following point is added:**

**(110 a) ‘material subsidiary’ means a subsidiary that on an individual or consolidated basis meets any of the following conditions:**

**(a) the subsidiary holds more than 5% of the consolidated risk-weighted assets of its original parent undertaking;**

**(b) the subsidiary generates more than 5% of the total operating income of its original parent undertaking;**

**(c) the total leverage exposure measure of the subsidiary is more than 5% of the consolidated leverage exposure measure of its original parent undertaking's;**

Or. en

*Justification*

*This is needed for the connected amendments to Article 45g.*

**Amendment 79**  
**Syed Kamall**

**Proposal for a directive**  
**Article 1 – paragraph 4 a (new)**  
Directive 2014/59/EU  
Article 2 – paragraph 1 – point 110 a (new)

*Text proposed by the Commission*

*Amendment*

**4a. In Article 2(1), the following point is added:**

**(110 a) ‘home resolution authority’ means**

*the group-level resolution authority or the third country resolution authority responsible for implementing the global resolution strategy;*

Or. en

**Amendment 80**  
**Syed Kamall**

**Proposal for a directive**  
**Article 1 – paragraph 4 b (new)**  
Directive 2014/59/EU  
Article 2 – paragraph 1 – point 110 b (new)

*Text proposed by the Commission*

*Amendment*

**4b. In Article 2(1), the following point is added:**

***(110 b) 'global resolution strategy' means the strategy designated in the global resolution plan;***

Or. en

**Amendment 81**  
**Syed Kamall**

**Proposal for a directive**  
**Article 1 – paragraph 4 c (new)**  
Directive 2014/59/EU  
Article 2 – paragraph 1 – point 110 c (new)

*Text proposed by the Commission*

*Amendment*

**4c. In Article 2(1), the following point is added:**

***(110 c) 'global resolution plan' means the plan prepared by the home resolution authority for the relevant group;***

Or. en



## **Amendment 82**

**Ernest Urtasun, Sven Giegold, Philippe Lamberts**  
on behalf of the Verts/ALE Group

### **Proposal for a directive**

**Article 1 – paragraph 4 a (new)**

Directive 2014/59/EU

Article 4 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

**4 a. In Article 4 the following paragraph (1a) is added:**

**“1a. Where simplified obligations according to this Article are applied, the competent authority may waive the requirements referred to in Article 5(1) or where the resolution authority deems it feasible and credible to liquidate the institution under normal insolvency proceedings or other equivalent national procedures the resolution authority may waive the requirements referred to in Article 10(1). The right of the competent authority and of the resolution authority to gather relevant information shall remain unaffected.”**

Or. en

## **Amendment 83**

**Marco Valli**

### **Proposal for a directive**

**Article 1 – paragraph 4 a (new)**

Directive 2014/59/EU

Article 5 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

**4 a. In Article 5 the following paragraph (1a) is added:**

**“1a. By way of derogation from paragraph 1, a recovery plan is not mandatory for small and non-complex institutions as defined in article 430a of**

***Regulation (EU) No 575/2013 that would not have an adverse impact on financial stability due to their small size, limited interconnectedness and low complexity.”***

Or. en

#### **Amendment 84**

**Ernest Urtasun, Sven Giegold, Philippe Lamberts**  
on behalf of the Verts/ALE Group

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

##### **Article 1 – paragraph 4 b (new)**

Directive 2014/59/EU

Article 5 – paragraph 4

#### *Present text*

4. Recovery plans shall include, where applicable, an analysis of how and when an institution may apply, in the conditions addressed by the plan, for the use of central bank facilities and identify those assets which would be expected to qualify as collateral.

#### *Amendment*

***4 b. In Article 5, paragraph (4) is replaced by the following:***

“4. Recovery plans shall include, where applicable, an analysis of how and when an institution may apply, in the conditions addressed by the plan, for the use of central bank facilities and identify ***on a regular basis, that would be at least quarterly,*** those assets which would be expected to qualify as collateral.”

Or. en

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)*

#### **Amendment 85**

**Marco Valli**

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

##### **Article 1 – paragraph 4 b (new)**

Directive 2014/59/EU

Article 5 – paragraph 4 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

***4 b. In Article 5 a new paragraph (4a)***

*is added:*

***“4 a. Recovery plans shall also include a demonstration on how the institution will effect the structural separation of trading and investment banking activities from the core credit institution. The recovery plan shall explain in detail how the separation will be carried out and contain a specification of assets and activity that will be separated from the core credit institution.”***

Or. en

## **Amendment 86**

**Ernest Urtasun, Sven Giegold, Philippe Lamberts**  
on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Article 1 – paragraph 4 c (new)**

Directive 2014/59/EU

Article 5 – paragraph 8

*Present text*

8. Member States *may* provide that competent authorities have the power to require an institution to maintain detailed records of financial contracts to which the institution concerned is a party.

*Amendment*

***4 c. In Article 5, paragraph (8) is replaced by the following:***

***“8. Member States shall provide that competent authorities have the power to require an institution to maintain detailed records of financial contracts to which the institution concerned is a party. Competent authorities shall require, in particular, that institutions make available, within 24 hours of being requested by the competent authority or resolution authority, comprehensive documentation describing the current liabilities of the institution and their place in the creditor hierarchy.”***

Or. en

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)*

## **Amendment 87**

**Ernest Urtasun, Sven Giegold, Philippe Lamberts**  
on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Article 1 – paragraph 4 d (new)**

Directive 2014/59/EU

Article 5 – paragraph 10 – subparagraph 1

#### *Present text*

10. EBA shall develop draft regulatory technical standards further specifying, without prejudice to Article 4, the information to be contained in the recovery plan referred to in paragraph 5 of this Article.

#### *Amendment*

***4 d. In Article 5(10), the first subparagraph is replaced by the following:***

***“10. EBA shall develop draft regulatory technical standards further specifying, without prejudice to Article 4, the information to be contained in the recovery plan referred to in paragraph 5 of this Article as well as for specifying what constitutes a significant deterioration of the financial situation referred to in paragraph 1 of this Article and for the changes to the legal or organisational structure of the institution, its business or its financial situation referred to in paragraph 2 of this Article.”***

Or. en

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)*

## **Amendment 88**

**Ernest Urtasun, Sven Giegold, Philippe Lamberts**  
on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Article 1 – paragraph 4 e (new)**

Directive 2014/59/EU

Article 6 – paragraph 2

#### *Present text*

2. The competent authorities shall,

#### *Amendment*

***4 e. In Article 6, paragraph (2) is replaced by the following:***

***“2. The competent authorities shall, within***

within **six** months of the submission of each plan, and after consulting the competent authorities of the Member States where significant branches are located insofar as is relevant to that branch, review it and assess the extent to which it satisfies the requirements laid down in Article 5 and the following criteria:

(a) the implementation of the arrangements proposed in the plan is reasonably likely to maintain or restore the viability and financial position of the institution or of the group, taking into account the preparatory measures that the institution has taken or has planned to take;

(b) the plan and specific options within the plan are reasonably likely to be implemented **quickly** and effectively in situations of financial stress and avoiding to the maximum extent possible any significant adverse effect on the financial system, including in scenarios which would lead other institutions to implement recovery plans within the same period.

**three** months of the submission of each plan, and after consulting the competent authorities of the Member States where significant branches are located insofar as is relevant to that branch, review it and assess the extent to which it satisfies the requirements laid down in Article 5 and the following criteria:

(a) the implementation of the arrangements proposed in the plan is reasonably likely to maintain or restore **within a specified timeframe** the viability, **liquidity** and financial position of the institution or of the group, taking into account the preparatory measures that the institution has taken or has planned to take;

(b) the plan and specific options within the plan are reasonably likely to be implemented **within a specified timeframe** and effectively in situations of financial stress and avoiding to the maximum extent possible any significant adverse effect on the financial system, including in scenarios which would lead other institutions to implement recovery plans within the same period.”

Or. en

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)*

## **Amendment 89**

**Ernest Urtasun, Sven Giegold, Philippe Lamberts**  
on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Article 1 – paragraph 4 f (new)**

Directive 2014/59/EU

Article 6 – paragraph 5

#### *Present text*

5. Where the competent authority assesses that there are material deficiencies in the

#### *Amendment*

**4 f. In Article 6, paragraph (5) is replaced by the following:**

“5. Where the competent authority assesses that there are material deficiencies in the

recovery plan, or material impediments to its implementation, **it** shall notify the institution or the parent undertaking of the group **of its assessment** and require the institution to submit, within **two months**, extendable with the authorities' approval by one month, a revised plan demonstrating how those deficiencies or impediments are addressed. Before requiring an institution to resubmit a recovery plan the competent authority shall give the institution the opportunity to state its opinion on that requirement. Where the competent authority does not consider the deficiencies and impediments to have been adequately addressed by the revised plan, it **may** direct the institution to make specific changes to the plan.

recovery plan, or material impediments to its implementation **or where the resolution authorities make recommendations referred to in paragraph 4, the competent authority** shall notify the institution or the parent undertaking of the group and require the institution to submit, within **one month**, extendable with the authorities' approval by one month, a revised plan demonstrating how those deficiencies or impediments are addressed. Before requiring an institution to resubmit a recovery plan the competent authority shall give the institution the opportunity to state its opinion on that requirement. Where the competent authority does not consider the deficiencies and impediments to have been adequately addressed by the revised plan, it **shall** direct the institution to make specific changes to the plan.

Or. en

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)*

## **Amendment 90**

**Ernest Urtasun, Sven Giegold, Philippe Lamberts**  
on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Article 1 – paragraph 4 g (new)**

Directive 2014/59/EU

Article 6 – paragraph 6

#### *Present text*

6. If the institution fails to submit a revised recovery plan, or if the competent authority determines that the revised recovery plan does not adequately remedy the deficiencies or potential impediments identified in its original assessment, and it is not possible to adequately remedy the deficiencies or impediments through a direction to make specific changes to the

#### *Amendment*

**4 g. In Article 6, paragraph (6) is replaced by the following:**

6. If the institution fails to submit a revised recovery plan, or if the competent authority determines that the revised recovery plan does not adequately remedy the deficiencies or potential impediments identified in its original assessment, and it is not possible to adequately remedy the deficiencies or impediments through a direction to make specific changes to the

plan, the competent authority shall require the institution to identify within a **reasonable** timeframe changes it **can** make to its business in order to address the deficiencies in or impediments to the implementation of the recovery plan.

***If the institution fails to identify such changes within the timeframe set by the competent authority, or if the competent authority assesses that the actions proposed by the institution would not adequately address the deficiencies or impediments, the competent authority may*** direct the institution to take any measures it considers to be ***necessary and proportionate***, taking into account the seriousness of the deficiencies and impediments and the effect of the measures on the institution's business. The competent authority may, without prejudice to Article 104 of Directive 2013/36/EU, direct the institution ***to:***

- (a) reduce the risk profile of the institution, including liquidity risk;
- (b) enable timely recapitalisation measures;
- (c) review the institution's strategy and structure;
- (d) make changes to the funding strategy so as to improve the resilience of the core business lines and critical functions;
- (e) make changes to the governance structure of the institution.

The list of measures referred to in this paragraph does not preclude Member

plan, the competent authority shall require the institution to identify within a **specified** timeframe changes it **is able to** make to its business in order to address the deficiencies in or impediments to the implementation of the recovery plan **or** direct the institution to take any measures it considers to be **appropriate**, taking into account the seriousness of the deficiencies and impediments and the effect of the measures on the institution's business.

The competent authority may, without prejudice to Article 104 of Directive 2013/36/EU, direct the institution, ***within a timeframe specified by the authority, to:***

- (a) reduce the risk profile of the institution, including liquidity risk ***and restore within a specified timeframe a liquidity position or liquidity coverage ratio to a certain threshold above the minimum requirement established in Regulation (EU) No 575/2013;***
- (b) enable timely recapitalisation measures;
- (c) review the institution's strategy and structure;
- (d) make changes to the funding strategy so as to improve the resilience of the core business lines and critical functions;
- (e) make changes to the governance structure of the institution.

The list of measures referred to in this paragraph does not preclude Member

States from authorising competent authorities to take additional measures under national law.

States from authorising competent authorities to take additional measures under national law.”

Or. en

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)*

## **Amendment 91**

**Marco Valli**

### **Proposal for a directive**

#### **Article 1 – paragraph 4 c (new)**

Directive 2014/59/EU

Article 6 – paragraph 6 – point c a (new)

*Text proposed by the Commission*

*Amendment*

**4 c. In Article 6(6), the following point (c a) is added:**

**“(c a) require the institution to separate its core credit function from its trading activities, so as to ensure that the latter could be wound down without affecting the conduct of the retail business and without the need to rely on the injection of public funds;”**

Or. en

## **Amendment 92**

**Ernest Urtasun, Sven Giegold, Philippe Lamberts**  
on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Article 1 – paragraph 4 h (new)**

Directive 2014/59/EU

Article 8 – paragraph 7

*Present text*

*Amendment*

7. Upon request of a competent authority in

**4 h. In Article 8, paragraph 7 is replaced by the following:**

**"7. Upon request of a competent authority**



accordance with paragraph 3 or 4, EBA may only assist the competent authorities in reaching an agreement in accordance with Article 19(3) of Regulation (EU) No 1093/2010 in relation to the assessment of recovery plans and implementation of the measures of point (a),(b), and (d) of Article 6(6).

in accordance with paragraph 3 or 4, EBA may only assist the competent authorities in reaching an agreement in accordance with Article 19(3) of Regulation (EU) No 1093/2010 in relation to the assessment of recovery plans and implementation of the measures of point (a),(b),(c) and (d) of Article 6(6)."

Or. en

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)*

### **Amendment 93**

**Ernest Urtasun, Sven Giegold, Philippe Lamberts**

on behalf of the Verts/ALE Group

### **Proposal for a directive**

**Article 1 – paragraph 4 i (new)**

Directive 2014/59/EU

Article 9 – paragraph 1 – subparagraph 1

#### *Present text*

1. For the purpose of Articles 5 to 8, competent authorities shall require that each recovery plan includes a framework of indicators established by the institution which identifies the points at which appropriate actions referred to in the plan may be taken. Such indicators shall be agreed by competent authorities when making the assessment of recovery plans in accordance with Articles 6 and 8. The indicators may be of a qualitative or quantitative nature relating to the institution's financial position and shall be capable of being monitored easily. Competent authorities shall ensure that institutions put in place appropriate arrangements for the regular monitoring of the indicators.

#### *Amendment*

***4 i. In Article 9(1), the first subparagraph is replaced by the following:***

"1. For the purpose of Articles 5 to 8, competent authorities shall require that each recovery plan includes a framework of indicators established by the institution which identifies the points at which appropriate actions referred to in the plan may be taken. ***The indicators shall at least include a minimum set of triggers referred to in paragraph 5 of Article 27.*** Such indicators shall be agreed by competent authorities when making the assessment of recovery plans in accordance with Articles 6 and 8. The indicators may be of a qualitative or quantitative nature relating to the institution's financial position and shall be capable of being monitored easily. Competent authorities shall ensure that institutions put in place appropriate arrangements for the regular

monitoring of the indicators.

Or. en

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)*

#### **Amendment 94**

**Othmar Karas**

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

#### **Article 1 – paragraph 4 a (new)**

Directive 2014/59/EU

Article 10 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***4 a. In Article 10 the following paragraph (1a) is inserted:***

***"1a. Paragraph 1 shall not apply to an institution where the resolution authority assesses that this institution, if it were to fail, would be liquidated under normal insolvency proceedings."***

Or. en

#### *Justification*

*In the case that an institution can be liquidated under normal insolvency proceedings, no resolution will take place and no resolution instruments – including the bail-in tool – will be applied. In line with the principle of proportionality, this amendment shall therefore foresee that the requirement for the competent resolution authorities to draw up and update resolution plans shall not apply to institutions, which can be liquidated under normal insolvency proceedings.*

#### **Amendment 95**

**Ernest Urtasun, Sven Giegold, Philippe Lamberts**

on behalf of the Verts/ALE Group

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

#### **Article 1 – paragraph 4 j (new)**

Directive 2014/59/EU

Article 10 – paragraph 2

*Present text*

2. When drawing up the resolution plan, the resolution authority shall identify any material impediments to resolvability and, where ***necessary and proportionate***, outline relevant actions for how those impediments could be addressed, according to Chapter II of this Title.

*Amendment*

***4 j. In Article 10, paragraph (2) is replaced by the following:***

"2. When drawing up the resolution plan, the resolution authority shall identify any material impediments to resolvability and, where ***appropriate***, outline relevant actions for how those impediments could be addressed, according to Chapter II of this Title."

Or. en

(<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014L0059&from=EN>)

#### **Amendment 96**

**Ernest Urtasun, Sven Giegold, Philippe Lamberts**  
on behalf of the Verts/ALE Group

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

#### **Article 1 – paragraph 4 k (new)**

Directive 2014/59/EU

Article 10 – paragraph 4

*Present text*

4. The resolution plan shall include an analysis of how and when an institution may apply, in the conditions addressed by the plan, for the use of central bank facilities and shall identify those assets which would be expected to qualify as collateral.

*Amendment*

***4 k. In Article 10, paragraph (4) is replaced by the following:***

"4. The resolution plan shall include an analysis of how and when an institution may apply, in the conditions addressed by the plan, for the use of central bank facilities and shall identify those assets which would be expected to qualify as collateral ***while providing a prudent estimation of its average yearly value in aggregate for central bank liquidity purposes taking due account of relevant haircuts.***"

Or. en

**Amendment 97**

**Marco Valli**

**Proposal for a directive**

**Article 1 – paragraph 4 d (new)**

Directive 2013/59/EU

Article 10 – paragraph 7 – point c

*Present text*

(c) a demonstration of how *critical functions and core business lines* could be legally and economically separated, *to the extent necessary, from other functions so as to ensure continuity upon the failure of the institution;*

*Amendment*

**4 d. In Article 10(7), point (c) is replaced by the following:**

"(c) a demonstration of how *the retail banking activities* could be legally and economically separated *from trading activities, and how the latter could be wound down, in a manner that does not affect the conduct of retail business nor impose losses on depositors or taxpayers;*"

Or. en

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0059&from=EN>)*

**Amendment 98**

**Ernest Urtasun, Philippe Lamberts, Sven Giegold**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 1 – paragraph 4 l (new)**

Directive 2014/59/EU

Article 10 – paragraph 7 – point i

*Present text*

(i) an explanation by the resolution authority as to how the resolution options could be financed without the assumption of any of the following:

(i) any extraordinary public financial

*Amendment*

**4 l. In Article 10(7), point (i) is replaced by the following:**

"(i) an explanation by the resolution authority as to how the resolution options could be financed without the assumption of any of the following:

(i) any extraordinary public financial

support besides the use of the financing arrangements established in accordance with Article 100;

- (ii) any central bank emergency liquidity assistance; or
- (iii) any central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms;

support *to the entity under resolution or entities acquiring parts of its business* besides the use of the financing arrangements established in accordance with Article 100;

- (ii) any central bank emergency liquidity assistance; or
- (iii) any central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms;”

Or. en

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014L0059&from=EN>)*

#### **Amendment 99**

**Ernest Urtasun, Philippe Lamberts, Sven Giegold**

on behalf of the Verts/ALE Group

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

**Article 1 – paragraph 4 m (new)**

Directive 2014/59/EU

Article 10 – paragraph 7 – point p

*Present text*

(p) *where applicable*, the minimum requirement for own funds and contractual bail-in instruments pursuant to Article 45(1), and a deadline to reach that level, where applicable;

*Amendment*

**4 m. In Article 10(7), point (p) is replaced by the following:**

(p) the minimum requirement for own funds and contractual bail-in instruments pursuant to Article 45(1), and a deadline to reach that level, where applicable;

Or. en

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014L0059&from=EN>)*

#### **Amendment 100**

**Ernest Urtasun, Philippe Lamberts, Sven Giegold**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 1 – paragraph 4 n (new)**

Directive 2014/59/EU

Article 10 – paragraph 7 – point p a (new)

*Text proposed by the Commission*

*Amendment*

**4 n. In Article 10(7), the following point (pa) is inserted:**

**“(pa) a detailed and comprehensive list of capital and debt instruments per each ranking category as established according to national insolvency proceedings and where available a detailed list of the holders of these instruments. The list shall be updated within 24 hours of any change to the liability structure and be made available to competent or resolution authorities within 24 hours of a request by such an authority.”**

Or. en

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014L0059&from=EN>)*

**Amendment 101**

**Ernest Urtasun, Philippe Lamberts, Sven Giegold**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 1 – paragraph 4 o (new)**

Directive 2014/59/EU

Article 10 – paragraph 8

*Present text*

*Amendment*

8. Member States shall ensure that resolution authorities have the power to require an institution and an entity referred to in point (b), (c) or (d) of Article 1(1) to maintain detailed records of financial contracts to which it is a party. The

**4 o. In Article 10, paragraph (8) is replaced by the following:**

"8. Member States shall ensure that resolution authorities have the power to require an institution and an entity referred to in point (b), (c) or (d) of Article 1(1) to maintain detailed records of financial contracts to which it is a party. The

resolution authority **may** specify a time-limit within which the institution or entity referred to in point (b), (c) or (d) of Article 1(1) is to be capable of producing those records. The same time-limit shall apply to all institutions and all entities referred to in point (b), (c) and (d) of Article 1(1) under its jurisdiction. The resolution authority may decide to set different time-limits for different types of financial contracts as referred to in Article 2(100). This paragraph shall not affect the information gathering powers of the competent authority.

resolution authority **shall** specify a time-limit within which the institution or entity referred to in point (b), (c) or (d) of Article 1(1) is to be capable of producing those records. The same time-limit shall apply to all institutions and all entities referred to in point (b), (c) and (d) of Article 1(1) under its jurisdiction. The resolution authority may decide to set different time-limits for different types of financial contracts as referred to in Article 2(100). This paragraph shall not affect the information gathering powers of the competent authority."

Or. en

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)*

## **Amendment 102**

**Ernest Urtasun, Sven Giegold, Philippe Lamberts**  
on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Article 1 – paragraph 4 p (new)**

Directive 2014/59/EU

Article 11 – paragraph 1 – subparagraph 2

#### *Present text*

In particular the resolution authorities shall have the power to require, among other information, the information and analysis specified in Section B of the Annex.

#### *Amendment*

**4p. In Article 11(1), the second subparagraph is replaced by the following:**

“In particular the resolution authorities shall have the power to require **within 24 hours**, among other information, the information and analysis specified in Section B of the Annex.”

Or. en

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)*

## **Amendment 103**

**Ernest Urtasun, Sven Giegold, Philippe Lamberts**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 1 – paragraph 5 a (new)**

Directive 2014/59/EU

Article 12 – paragraph 2

*Present text*

2. The group resolution plan shall be drawn up on the basis the information provided pursuant to Article 11.

*Amendment*

**5 a. In Article 12, paragraph (2) is replaced by the following:**

"2. The group resolution plan shall be drawn up on the basis **of the requirements set out in Article 10 and** the information provided pursuant to Article 11."

Or. en

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)*

**Amendment 104**

**Ernest Urtasun, Sven Giegold, Philippe Lamberts**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 1 – paragraph 6**

Directive 2014/59/EU

Article 12 – paragraph 3 – point a

*Text proposed by the Commission*

(a) set out the resolution actions planned to be taken for resolution entities in the scenarios referred to in Article 10(3), and the implications of those resolution actions for the other group entities referred to in points (b), (c) and (d) of Article 1(1), for the parent undertaking and for subsidiary institutions;

*Amendment*

(a) **on the basis of the requirements set out in Article 10**, set out the resolution actions planned to be taken for resolution entities in the scenarios referred to in Article 10(3), and the implications of those resolution actions for the other group entities referred to in points (b), (c) and (d) of Article 1(1), for the parent undertaking and for subsidiary institutions;

Or. en

**Amendment 105**

**Ernest Urtasun**

PE616.823v02-00

64/123

AM\1144712EN.docx



on behalf of the Verts/ALE Group  
**Sven Giegold, Philippe Lamberts**

**Proposal for a directive**

**Article 1 – paragraph 10 a (new)**

Directive 2014/59/EU

Article 15 – paragraph 1 – subparagraph 2

*Present text*

An institution shall be deemed to be 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 while avoiding to the maximum extent possible any significant adverse effect on the financial system, including in circumstances of broader financial instability or system-wide events, of the Member State in which the institution is established, or other Member States or the Union and with a view to ensuring the continuity of critical functions carried out by the institution. The resolution authorities shall notify EBA in a timely manner whenever an institution is deemed not to be resolvable.

*Amendment*

**10 a. In Article 15(1), the second subparagraph is replaced by the following:**

“An institution shall be deemed to be 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 while avoiding to the maximum extent possible any significant adverse effect on the financial system, including in circumstances of broader financial instability or system-wide events, of the Member State in which the institution is established, or other Member States or the Union and with a view to ensuring the continuity of critical functions carried out by the institution. The resolution authorities shall notify EBA in a timely manner whenever an institution is deemed not to be resolvable. ***The assessment of resolvability shall in particular identify explicitly whether the institution shall be wound up under normal insolvency proceedings or whether it shall be subject to the resolution tools established by this Directive. The assessment shall also indicate whether given specific the characteristics of the institution a resolution action is expected to be necessary in the public interest pursuant to Article 32 whenever the institution is failing or likely to fail.***”

Or. en

**Amendment 106**

**Ernest Urtasun**

on behalf of the Verts/ALE Group

**Sven Giegold, Philippe Lamberts**

**Proposal for a directive**

**Article 1 – paragraph 10 b (new)**

Directive 2014/59/EU

Article 15 – paragraph 2 – subparagraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

**10 b. In Article 15(2), the following subparagraph is added:**

***“An institution shall be deemed to be non-resolvable if any of the information required pursuant to paragraph 7 of Article 10 cannot be provided to the standard deemed necessary by the Authority.”***

Or. en

**Amendment 107**

**Ernest Urtasun**

on behalf of the Verts/ALE Group

**Sven Giegold, Philippe Lamberts**

**Proposal for a directive**

**Article 1 – paragraph 12 a (new)**

Directive 2014/59/EU

Article 17 – paragraph 1

*Present text*

*Amendment*

1. Member States shall ensure that when, pursuant to an assessment of resolvability for an institution carried out in accordance with Articles 15 and 16, a resolution

**12 a. In Article 17, paragraph (1) is replaced by the following:**

"1. Member States shall ensure that when, pursuant to an assessment of resolvability for an institution carried out in accordance with Articles 15 and 16, a resolution

authority after consulting the competent authority determines that there are substantive impediments to the resolvability of that institution, the resolution authority shall notify in writing that determination to the institution concerned, to the competent authority and to the resolution authorities of the jurisdictions in which significant branches are located.

authority after consulting the competent authority determines that there are substantive impediments to the resolvability of that institution, the resolution authority shall notify in writing that determination to the institution concerned, to the competent authority and to the resolution authorities of the jurisdictions in which significant branches are located. ***The inability to fulfil any of the information requirements referred to in paragraph 7 of Article 10 to the satisfaction of the relevant authority shall be considered by resolution authorities as a substantive impediment to resolvability.***

Or. en

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)*

## **Amendment 108**

**Ernest Urtasun**

on behalf of the Verts/ALE Group

**Sven Giegold, Philippe Lamberts**

### **Proposal for a directive**

**Article 1 – paragraph 12 b (new)**

Directive 2014/59/EU

Article 17 – paragraph 3

#### *Present text*

3. 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 possible measures to address or remove the substantive impediments identified in the notification. The resolution authority, after consulting the competent authority, shall assess whether those measures effectively address or remove the substantive impediments in question.

#### *Amendment*

***12 b. In Article 17, paragraph 3 is replaced by the following:***

"3. Within **three** months of the date of receipt of a notification made in accordance with paragraph 1, the institution shall propose to the resolution authority possible measures to address or remove the substantive impediments identified in the notification. The resolution authority, after consulting the competent authority, shall assess whether those measures effectively address or remove the substantive impediments in question."

(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)

### **Amendment 109**

**Pedro Silva Pereira, Luigi Morgano, Andrea Cozzolino, Roberto Gualtieri, Doru-Claudian Frunzulică, Costas Mavrides**

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

##### **Article 1 – paragraph 13**

Directive 2014/59/EU

Article 17 – paragraph 3 – subparagraph 2

#### *Text proposed by the Commission*

Where a substantive impediment to resolvability is due to a situation referred to in Article 141a(2) of Directive 2013/36/EU the institution shall, within two weeks of the date of receipt of a notification made in accordance with paragraph 1, propose to the resolution authority possible measures to ensure that the institution complies with Articles 45f or 45g and the requirement referred to in Article 128(6) of Directive 2013/36/EU..

#### *Amendment*

Where a substantive impediment to resolvability is due to a situation referred to in Article 141a(2) of Directive 2013/36/EU the institution shall, within two weeks of the date of receipt of a notification made in accordance with paragraph 1, propose to the resolution authority possible measures to ensure that the institution complies with Articles 45f or 45g and the requirement referred to in Article 128(6) of Directive 2013/36/EU. ***The two week deadline may be extended by the resolution authority, in consultation with the competent authority, taking into account the specific circumstances of the case.***

Or. en

#### *Justification*

*More flexibility should be granted to the institution in order to submit proposals on measures to address impediments since the development of the most appropriate strategy by the institution in order to address the breach of any buffers that apply in addition to MREL requirements may require a longer time.*

### **Amendment 110**

**Marco Valli**

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

##### **Article 1 – paragraph 13**

PE616.823v02-00

68/123

AM1144712EN.docx

Directive 2014/59/EU  
Article 17 – paragraph 3 – subparagraph 2

*Text proposed by the Commission*

Where a substantive impediment to resolvability is due to a situation referred to in Article 141a(2) of Directive 2013/36/EU the institution shall, within **two** weeks of the date of receipt of a notification made in accordance with paragraph 1, propose to the resolution authority possible measures to ensure that the institution complies with Articles 45f or 45g and the requirement referred to in Article 128(6) of Directive 2013/36/EU.

*Amendment*

Where a substantive impediment to resolvability is due to a situation referred to in Article 141a(2) of Directive 2013/36/EU the institution shall, within **four** weeks of the date of receipt of a notification made in accordance with paragraph 1, propose to the resolution authority possible measures to ensure that the institution complies with Articles 45f or 45g and the requirement referred to in Article 128(6) of Directive 2013/36/EU. ***The four weeks deadline may be extended by the resolution authority in consultation with the competent authority on a case-by-case basis.***

Or. en

**Amendment 111**

**Ernest Urtasun**

on behalf of the Verts/ALE Group

**Sven Giegold, Philippe Lamberts**

**Proposal for a directive**

**Article 1 – paragraph 13**

Directive 2014/59/EU

Article 17 – paragraph 3 – subparagraph 2

*Text proposed by the Commission*

Where a substantive impediment to resolvability is due to a **situation** referred to in Article 141a(2) of Directive 2013/36/EU the institution shall, within two weeks of the date of receipt of a notification made in accordance with paragraph 1, propose to the resolution authority possible measures to ensure that the institution complies with **Articles 45f or 45g and the requirement referred to in Article 128(6) of Directive 2013/36/EU.**

*Amendment*

Where a substantive impediment to resolvability is due to a **failure to comply with the requirement of Article 45f and 45g of this Directive and with the requirement as** referred to in Article 141a(1) of Directive 2013/36/EU the institution shall, within two weeks of the date of receipt of a notification made in accordance with paragraph 1, propose to the resolution authority possible measures to ensure that the institution complies with **these requirements.**

(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)

## **Amendment 112**

**Ernest Urtasun**

on behalf of the Verts/ALE Group

**Sven Giegold, Philippe Lamberts**

### **Proposal for a directive**

**Article 1 – paragraph 13 a (new)**

Directive 2014/59/EU

Article 17 – paragraph 4 – subparagraph 2

*Present text*

*Amendment*

*In identifying alternative measures, the resolution authority shall demonstrate how the measures proposed by the institution would **not** be able to remove the impediments to resolvability and how the alternative measures proposed **are proportionate** in removing them. The resolution authority shall take into account the threat to financial stability of those impediments to resolvability and the effect of the measures on the business of the institution, its stability and its ability to contribute to the economy.*

**13 a. In Article 17(4), the second subparagraph is replaced by the following:**

*The institution shall **have the right to** demonstrate how the measures **it** proposed would be able to remove the impediments to resolvability and how the alternative measures proposed **by the authority are disproportionate** in removing them. The resolution authority shall take into account the threat to financial stability of those impediments to resolvability and the effect of the measures on the business of the institution, its stability and its ability to contribute to the economy."*

Or. en

(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)

## **Amendment 113**

**Ernest Urtasun**

on behalf of the Verts/ALE Group

**Sven Giegold, Philippe Lamberts**

### **Proposal for a directive**

**Article 1 – paragraph 13 b (new)**

Directive 2014/59/EU  
Article 17 – paragraph 5 – introductory part

*Present text*

5. For the purposes of paragraph 4, resolution authorities shall **have the power to take** any of the following measures:

*Amendment*

**13 b. In Article 17(5), the introductory part is replaced by the following:**

"5. For the purposes of paragraph 4, resolution authorities shall **require the institution to comply with** any of the following measures **within a specified timeframe:**"

Or. en

(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)

**Amendment 114**  
**Marco Valli**

**Proposal for a directive**  
**Article 1 – paragraph 13 b (new)**  
Directive 2014/59/EU  
Article 17 – paragraph 5 – introductory part

*Present text*

5. For the purposes of paragraph 4, resolution authorities shall have the power to take any of the following measures:

*Amendment*

**13 b. In Article 17(5), the introductory part is replaced by the following:**

"5. For the purposes of paragraph 4, resolution authorities shall **require an institution or a parent undertaking to segregate its trading and investment banking activities from the deposit taking activities and allocate them into a separated legal entity. In addition, they shall** have the power to take any of the following measures:"

Or. en

(<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0059&from=EN>)

## Amendment 115

**Ernest Urtasun, Sven Giegold, Philippe Lamberts**  
on behalf of the Verts/ALE Group

### Proposal for a directive

#### Article 1 – paragraph 14

Directive 2014/59/EU

Article 17 – paragraph 5 – point h1

#### *Text proposed by the Commission*

(h1) require an institution or an entity referred to in point (b), (c) or (d) of Article 1(1) to submit a plan to restore compliance with Articles 45f **and** 45g, and the requirement referred to in Article 128(6) of Directive 2013/36/EU;

#### *Amendment*

(h1) require, ***within three weeks of the date of receipt of a notification made in accordance with paragraph 1 of this Article***, an institution or an entity referred to in point (b), (c) or (d) of Article 1(1) to submit a plan to restore ***within one year*** compliance with Articles 45f **to** 45g, and the requirement referred to in Article 128(6) of Directive 2013/36/EU;

Or. en

## Amendment 116

**Ernest Urtasun, Sven Giegold, Philippe Lamberts**  
on behalf of the Verts/ALE Group

### Proposal for a directive

#### Article 1 – paragraph 15

Directive 2014/59/EU

Article 17 – paragraph 5 – point j1

#### *Text proposed by the Commission*

(j1) require an institution or entity referred to in point(b), (c) or (d) of Article 1(1), to change the maturity profile of items referred to in Article 45b or points (a) and (b) of Article 45g(3) to ensure continuous compliance with Article 45f or Article 45g.

#### *Amendment*

(j1) require ***within three weeks of the date of receipt of a notification made in accordance with paragraph 1 of this Article*** an institution or entity referred to in point(b),(c) or (d) of Article 1(1), to change the maturity profile of items referred to in Article 45b or points (a) and (b) of Article 45g(3) to ensure continuous compliance with Article 45f or Article 45g;

Or. en



**Amendment 117**  
**Caroline Nagtegaal**

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

Directive 2014/59/EU  
Article 17 – paragraph 5 – point j1

*Text proposed by the Commission*

(j1) require an institution or entity referred to in point(b), (c) or (d) of Article 1(1), to **change** the maturity profile of items referred to in Article 45b or points (a) and (b) of Article 45g(3) to ensure continuous compliance with Article 45f or Article 45g.

*Amendment*

(j1) require an institution or entity referred to in point(b), (c) or (d) of Article 1(1), to **give guidance on** the maturity profile of items referred to in Article 45b or points (a) and (b) of Article 45g(3) to ensure continuous compliance with Article 45f or Article 45g.

Or. en

**Amendment 118**  
**Ernest Urtasun, Sven Giegold, Philippe Lamberts**  
on behalf of the Verts/ALE Group

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

Directive 2014/59/EU  
Article 17 – paragraph 8 a (new)

*Text proposed by the Commission*

*Amendment*

**16 a. In Article 17, the following paragraph (8a) is added:**

***“8a. Taking into account, where appropriate, experience acquired in the application of the guidelines referred to in paragraph 8 of this Article, EBA shall develop draft regulatory technical standards to specify further details on the measures provided for in paragraph 5 of this Article and the circumstances in which each measure may be applied.***

***EBA shall submit those draft regulatory technical standards to the Commission by 3 July 2017. Power is conferred on the Commission to adopt the regulatory***

*technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.”*

Or. en

**Amendment 119**

**Ernest Urtasun**

on behalf of the Verts/ALE Group

**Sven Giegold, Philippe Lamberts**

**Proposal for a directive**

**Article 1 – paragraph 17**

Directive 2014/59/EU

Article 18 – paragraph 3 – subparagraph 1

*Text proposed by the Commission*

Within **four** months of the date of receipt of the report, the Union parent undertaking may submit observations and propose to the group-level resolution authority alternative measures to remedy the impediments identified in the report.

*Amendment*

Within **three** months of the date of receipt of the report, the Union parent undertaking may submit observations and propose to the group-level resolution authority alternative measures to remedy the impediments identified in the report.

Or. en

**Amendment 120**

**Pedro Silva Pereira, Luigi Morgano, Andrea Cozzolino, Roberto Gualtieri, Doru-Claudian Frunzulică, Costas Mavrides**

**Proposal for a directive**

**Article 1 – paragraph 17**

Directive 2014/59/EU

Article 18 – paragraph 3 – subparagraph 2

*Text proposed by the Commission*

Where those impediments are due to a situation referred to in Article 141a(2) of Directive 2013/36/EU, the Union parent undertaking shall, within two weeks of the date of receipt of a notification made in accordance with paragraph 2, propose to

*Amendment*

Where those impediments are due to a situation referred to in Article 141a(2) of Directive 2013/36/EU, the Union parent undertaking shall, within two weeks of the date of receipt of a notification made in accordance with paragraph 2, propose to

the group-level resolution authority possible measures to address or remove those impediments.

the group-level resolution authority possible measures to address or remove those impediments. ***The two week deadline may be extended by the resolution authority, in consultation with the competent authority, taking into account the specific circumstances of the case.***

Or. en

### *Justification*

*More flexibility should be granted to the institution in order to submit proposals on measures to address impediments since the development of the most appropriate strategy by the institution in order to address the breach of any buffers that apply in addition to MREL requirements may require a longer time.*

### **Amendment 121**

**Ernest Urtasun**

on behalf of the Verts/ALE Group

**Sven Giegold, Philippe Lamberts**

### **Proposal for a directive**

**Article 1 – paragraph 17 a (new)**

Directive 2014/59/EU

Article 27 – paragraph 1

#### *Present text*

1. Where an institution infringes or, due, inter alia, to a rapidly deteriorating financial condition, including deteriorating liquidity situation, increasing level of leverage, non-performing loans or concentration of exposures, as assessed on the basis of a set of triggers, which **may** include the institution's own funds requirement plus 1,5 percentage points, is likely in the near future to infringe the requirements of Regulation (EU) No 575/2013, Directive 2013/36/EU, Title II of Directive 2014/65/EU or any of Articles 3 to 7, 14 to 17, and 24, 25 and 26 of Regulation (EU) No 600/2014, Member

#### *Amendment*

***17 a. In Article 27, paragraph 1 is replaced by the following:***

‘1. Where an institution infringes or, due, inter alia, to a rapidly deteriorating financial condition, including deteriorating liquidity situation, increasing level of leverage, non-performing loans or concentration of exposures, as assessed on **a weekly basis on** the basis of a set of triggers, which **shall** include the institution's own funds requirement plus 1,5 percentage points, is likely in the near future to infringe the requirements of Regulation (EU) No 575/2013, Directive 2013/36/EU, Title II of Directive 2014/65/EU or any of Articles 3 to 7, 14 to 17, and 24, 25 and 26 of Regulation (EU)

States shall ensure that competent authorities *have at their disposal*, without prejudice to the measures referred to in Article 104 of Directive 2013/36/EU where applicable, at least the following measures:

(a) require the management body of the institution to implement one or more of the arrangements or measures set out in the recovery plan or in accordance with Article 5(2) to update such a recovery plan when the circumstances that led to the early intervention are different from the assumptions set out in the initial recovery plan and implement one or more of the arrangements or measures set out in the updated plan within a specific timeframe and in order to ensure that the conditions referred to in the introductory phrase no longer apply;

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

(c) require the management body of the institution to convene, or if the management body fails to comply with that requirement convene directly, a meeting of shareholders of the institution, and in both cases set the agenda and require certain decisions to be considered for adoption by the shareholders;

**(d) require one or more members of the management body or senior management to be removed or replaced if those persons are found unfit to perform their duties pursuant to Article 13 of Directive 2013/36/EU or Article 9 of Directive 2014/65/EU;**

(e) require the management body 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,

No 600/2014, *or is likely in the near future to infringe the requirements of Articles 45 to 45f* Member States shall ensure that competent authorities *apply* without prejudice to the measures referred to in Article 104 of Directive 2013/36/EU where applicable, at least the following measures:

(a) require the management body of the institution to implement one or more of the arrangements or measures set out in the recovery plan or in accordance with Article 5(2) to update such a recovery plan when the circumstances that led to the early intervention are different from the assumptions set out in the initial recovery plan and implement one or more of the arrangements or measures set out in the updated plan within a specific timeframe and in order to ensure that the conditions referred to in the introductory phrase no longer apply;

(c) require the management body of the institution to convene, or if the management body fails to comply with that requirement convene directly, a meeting of shareholders of the institution, and in both cases set the agenda and require certain decisions to be considered for adoption by the shareholders;

(e) require the management body 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,

where applicable;

**(f) require changes to the institution's business strategy;**

(g) require changes to the legal or operational structures of the institution; and

**(h) acquire, including through on-site inspections and provide to the resolution authority, all the information necessary in order to update the resolution plan and prepare for the possible resolution of the institution and for valuation of the assets and liabilities of the institution in accordance with Article 36.**

where applicable;

(g) require changes to the legal or operational structures of the institution; and

**(ha) where the conditions laid down in Article 29a are complied with, suspend any payment or delivery obligation to which an institution or entity referred to in point (b), (c) or (d) of Article 1(1) is a party.'**

Or. en

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)*

## **Amendment 122**

**Ernest Urtasun**

on behalf of the Verts/ALE Group

**Sven Giegold, Philippe Lamberts**

### **Proposal for a directive**

#### **Article 1 – paragraph 18**

Directive 2014/59/EU

Article 27 – paragraph 1 – point i

*Text proposed by the Commission*

*Amendment*

**18. In Article 27(1), the following point (i) is added:**

**deleted**

**'(i) where the conditions laid down in Article 29a are complied with, suspend any payment or delivery obligation to which an institution or entity referred to in point (b), (c) or (d) of Article 1(1) is a party.'**

**Amendment 123**

**Anne Sander, Alain Lamassoure, Alain Cadec**

**Proposal for a directive**

**Article 1 – paragraph 18**

Directive 2014/59/EU

Article 27 – paragraph 1 – point i

*Text proposed by the Commission*

*Amendment*

**18. In Article 27(1), the following point (i) is added:** *deleted*

**‘(i) where the conditions laid down in Article 29a are complied with, suspend any payment or delivery obligation to which an institution or entity referred to in point (b), (c) or (d) of Article 1(1) is a party.’**

Or. en

*Justification*

*The unintended consequences are very serious and largely exceed the benefits. Among other things, it can create contagion and systemic risk of imposing moratoria tools on counterparties.*

**Amendment 124**

**Syed Kamall**

**Proposal for a directive**

**Article 1 – paragraph 18**

Directive 2014/59/EU

Article 27 – paragraph 1 – point i

*Text proposed by the Commission*

*Amendment*

**18. In Article 27(1), the following point (i) is added:** *deleted*

**‘(i) where the conditions laid down in Article 29a are complied with, suspend any payment or delivery obligation to**

***which an institution or entity referred to in point (b), (c) or (d) of Article 1(1) is a party.’***

Or. en

*Justification*

*The pre-resolution moratoria is very problematic as it would in essence be a resolution trigger, causing bank runs and contagion. In addition, it is likely that capital requirements would be raised.*

**Amendment 125**

**Pedro Silva Pereira, Pervenche Berès, Luigi Morgano, Andrea Cozzolino, Roberto Gualtieri, Doru-Claudian Frunzulică, Costas Mavrides**

**Proposal for a directive**

**Article 1 – paragraph 18**

Directive 2014/59/EU

Article 27 – paragraph 1 – point i

*Text proposed by the Commission*

*Amendment*

**18. In Article 27(1), the following point (i) is added: *deleted***

***‘(i) where the conditions laid down in Article 29a are complied with, suspend any payment or delivery obligation to which an institution or entity referred to in point (b), (c) or (d) of Article 1(1) is a party.’***

Or. en

*Justification*

*The introduction of a preventive moratorium may prove counterproductive as it can undermine confidence, lead to a bank run and eventually accelerate the fall of the bank.*

**Amendment 126**

**Esther de Lange**

**Proposal for a directive**  
**Article 1 – paragraph 18**  
Directive 2014/59/EU  
Article 27 – paragraph 1 – point i

*Text proposed by the Commission*

*Amendment*

**18. In Article 27(1), the following point (i) is added:** **deleted**

**‘(i) where the conditions laid down in Article 29a are complied with, suspend any payment or delivery obligation to which an institution or entity referred to in point (b), (c) or (d) of Article 1(1) is a party.’**

Or. en

*Justification*

*Moratorium tools should be used in (pre-)resolution or insolvency proceedings, should have covered deposits in scope and should - if applicable - after a maximum of five days automatically trigger the DGS. The tools would therefore be more likely to have a positive effect if in the hands of the resolution authority. The effectiveness of a moratorium on payments of a credit institution going concern, especially if covered deposits are allowed to be withdrawn or moved, is highly questionable. See Article 33a.*

**Amendment 127**  
**Thierry Cornillet**

**Proposal for a directive**  
**Article 1 – paragraph 18**  
Directive 2014/59/EU  
Article 27 – paragraph 1 – point i

*Text proposed by the Commission*

*Amendment*

**18. In Article 27(1), the following point (i) is added:** **deleted**

**‘(i) where the conditions laid down in Article 29a are complied with, suspend any payment or delivery obligation to which an institution or entity referred to in point (b), (c) or (d) of Article 1(1) is a party.’**



*Justification*

*The existing powers in the current BRRD are sufficient.*

**Amendment 128**

**Marco Zanni, Bernard Monot, Gerolf Annemans**

**Proposal for a directive**

**Article 1 – paragraph 18**

Directive 2014/59/EU

Article 27 – paragraph 1 – point i

*Text proposed by the Commission*

*Amendment*

**18. In Article 27(1), the following point (i) is added:** **deleted**

**‘(i) where the conditions laid down in Article 29a are complied with, suspend any payment or delivery obligation to which an institution or entity referred to in point (b), (c) or (d) of Article 1(1) is a party.’**

*Justification*

*The moratorium tool would increase the risk of developing a bank run, worsening it.*

**Amendment 129**

**Brian Hayes**

**Proposal for a directive**

**Article 1 – paragraph 18**

Directive 2014/59/EU

Article 27 – paragraph 1 – point i

*Text proposed by the Commission*

*Amendment*

(i) where the conditions laid down in Article 29a are complied with, suspend any payment or delivery obligation to which an

(i) where the conditions laid down in Article 29a are complied with, **and where the measures in points (a), (b), (c) and (e)**

institution or entity referred to in point (b), (c) or (d) of Article 1(1) is a party.

*of this paragraph have been exhausted*, suspend any payment or delivery obligation to which an institution or entity referred to in point (b), (c) or (d) of Article 1(1) is a party.

Or. en

### **Amendment 130**

**Ernest Urtasun**

on behalf of the Verts/ALE Group  
**Sven Giegold, Philippe Lamberts**

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

**Article 1 – paragraph 18 a (new)**

Directive 2014/59/EU

Article 27 – paragraph 5

#### *Present text*

5. Taking into account, where appropriate, experience acquired in the application of the guidelines referred to in paragraph 4, EBA *may* develop draft regulatory technical standards in order to specify a minimum set of triggers for the use of the measures referred to in paragraph 1.

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

#### *Amendment*

***18 a. In Article 27, paragraph (5) is replaced by the following:***

"5. Taking into account, where appropriate, experience acquired in the application of the guidelines referred to in paragraph 4, EBA *shall* develop draft regulatory technical standards ***before 1 January 2021*** in order to specify a minimum set of triggers for the use of the measures referred to in paragraph 1.

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

Or. en

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)*

### **Amendment 131**

**Marco Valli**

**Proposal for a directive**  
**Article 1 – paragraph 18 b (new)**  
Directive 2014/59/EU  
Article 28 – paragraph 1

*Present text*

Where there is a significant deterioration in the financial situation of an institution or where there are serious infringements of law, of regulations or of the statutes of the institution, or serious administrative irregularities, and other measures taken in accordance with Article 27 are not sufficient to reverse that deterioration, **Member States shall ensure that** competent authorities **may** require the removal of the senior management or management body of the institution, in its entirety or with regard to individuals. The appointment of the new senior management or management body shall be done in accordance with national and Union law and be subject to the approval or consent of the competent authority.

*Amendment*

**18 b. In Article 28 , paragraph 1 is replaced by the following:**

Where there is a significant deterioration in the financial situation of an institution or where there are serious infringements of law, of regulations or of the statutes of the institution, or serious administrative irregularities, and other measures taken in accordance with Article 27 are not sufficient to reverse that deterioration, competent authorities **shall** require the removal of the senior management or management body of the institution, in its entirety or with regard to individuals. The appointment of the new senior management or management body shall be done in accordance with national and Union law and be subject to the approval or consent of the competent authority."

Or. en

(<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0059&from=EN>)

**Amendment 132**  
**Marco Valli**

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

*Text proposed by the Commission*

**19. The following Article 29a is inserted:**

**‘Article 29a**

*Amendment*

**deleted**

***Power to suspend certain obligations.***

***1. Member States shall establish that their respective competent authority, after having consulted the resolution authority, can exercise the power referred to in point (i) of Article 27 (1) only where the exercise of the suspension power is necessary to carry out the assessment provided for in the first sentence of Article 27(1) or to make the determination provided for in point (a) of Article 32(1).***

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

***3. Any suspension pursuant to paragraph 1 shall not apply to:***

***(a) payment and delivery obligations owed to systems or operators of systems that have been designated in accordance with Directive 98/26/EC, CCPs and third country CCPs recognised by ESMA pursuant to Article 25 of Regulation (EU) No 648/2012 and to central banks;***

***(b) eligible claims for the purpose of Directive 97/9/EC;***

***(c) covered deposits.***

***4. When exercising a power under this Article, competent authorities shall have regard to the impact the exercise of that power might have on the orderly functioning of financial markets.***

***5. A payment or delivery obligation that would have been due during the suspension period shall be due immediately upon expiry of that period.***

***6. When payment or delivery obligations under a contract are suspended pursuant to paragraph 1, the payment or delivery obligations of the***

*entity's counterparties under that contract shall be suspended for the same period of time.*

**7.** *Member States shall ensure that competent authorities notify the resolution authorities about the exercise of any power referred to in paragraph 1 without delay.*

**8.** *Member States that make use of the option laid down in Article 32 (2) shall ensure that the suspension power referred to in paragraph 1 of this Article can also be exercised by the resolution authority, after having consulted the competent authority, where the exercise of that suspension power is necessary to make the determination provided for in point (a) of Article 32(1).'*

Or. en

#### *Justification*

*The pre-resolution moratorium tool would destroy trust in the banking sector and pose a great risk to financial stability. Moreover, it is not proportionate nor legitimate to restrict creditor rights simply for the purpose of giving authorities the time to make their assessment.*

**Amendment 133**  
**Thierry Cornillet**

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

*Text proposed by the Commission*

*Amendment*

**[...]**

**deleted**

Or. en

#### *Justification*

*The existing powers in the current BRRD are sufficient.*

**Amendment 134**

**Marco Zanni, Bernard Monot, Gerolf Annemans**

**Proposal for a directive**

**Article 1 – paragraph 19**

Directive 2014/59/EU

Article 29a

*Text proposed by the Commission*

*Amendment*

[...]

*deleted*

Or. en

*Justification*

*Necessary in order to be coherent with the deletion of the moratorium tool.*

**Amendment 135**

**Syed Kamall**

**Proposal for a directive**

**Article 1 – paragraph 19**

Directive 2014/59/EU

Article 29a

*Text proposed by the Commission*

*Amendment*

[...]

*deleted*

Or. en

*Justification*

*The ECR does not support the pre-resolution moratorium due to the many severe consequences - interalia it could cause a bank run, it acts as a resolution trigger, negative impact on financial stability.*

**Amendment 136**

**Esther de Lange**

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

*Text proposed by the Commission*

*Amendment*

**[...]**

**deleted**

Or. en

*Justification*

*Moratorium tools should be used in (pre-)resolution or insolvency proceedings, should have covered deposits in scope and should - if applicable - after a maximum of five days automatically trigger the DGS. The tools would therefore be more likely to have a positive effect if in the hands of the resolution authority. The effectiveness of a moratorium on payments of a credit institution going concern, especially if covered deposits are allowed to be withdrawn or moved, is highly questionable. See Article 33a.*

**Amendment 137**  
**Stanisław Ożóg**

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

*Text proposed by the Commission*

*Amendment*

**[...]**

**deleted**

Or. en

*Justification*

*Supervisory moratorium used in the pre-resolution phase would bring more disadvantages than advantages and could even cause more instability in the banking sector. “Pre-resolution moratorium”, as presented in the proposal, would be exercised to make a determination whether an institution is “failing or likely to fail”. Applying suspension powers to make such an assessment is not justified nor necessary. Instead, it rather brings more risks as it increases the stigma effect both for the bank and the whole banking system, which might result in a potential fierce run on bank(s) just after the discontinuation of moratorium.*

## **Amendment 138**

**Pedro Silva Pereira, Pervenche Berès, Luigi Morgano, Andrea Cozzolino, Roberto Gualtieri, Doru-Claudian Frunzulică, Costas Mavrides**

### **Proposal for a directive**

#### **Article 1 – paragraph 19**

Directive 2014/59/EU

Article 29a

*Text proposed by the Commission*

*Amendment*

**[...]**

***deleted***

Or. en

#### *Justification*

*The introduction of a preventive moratorium may prove counterproductive as it can undermine confidence, lead to a bank run and eventually accelerate the fall of the bank.*

## **Amendment 139**

**Anne Sander, Alain Lamassoure, Alain Cadec**

### **Proposal for a directive**

#### **Article 1 – paragraph 19**

Directive 2014/59/EU

Article 29a – paragraph 1

*Text proposed by the Commission*

*Amendment*

**1. Member States shall establish that their respective competent authority, after having consulted the resolution authority, can exercise the power referred to in point (i) of Article 27 (1) only where the exercise of the suspension power is necessary to carry out the assessment provided for in the first sentence of Article 27(1) or to make the determination provided for in point (a) of Article 32(1).**

***deleted***

Or. en

#### *Justification*

*The unintended consequences are very serious and largely exceed the benefits. Among other*



things, it can create contagion and systemic risk of imposing moratoria tools on counterparties.

**Amendment 140**  
**Jonás Fernández**

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

*Text proposed by the Commission*

1. Member States shall establish that ***their respective competent authority, after having consulted the resolution authority, can exercise the power referred to in point (i) of Article 27 (1) only where the exercise of the suspension power is necessary to carry out the assessment provided for in the first sentence of Article 27(1) or to make the determination provided for in point (a) of Article 32(1).***

*Amendment*

1. Member States shall establish that ***resolution authorities have the power to suspend payment or delivery obligations to which an institution or an entity referred to in points (b), (c) or (d) of Article 1(1) is party when the resolution authority, after the determination that the institution is failing or likely to fail pursuant to Article 32(1)(a) has been made, decides that the exercise of the suspension power is necessary to avoid the further deterioration of the financial conditions of the institutions or entity referred to in points (c), (c) or (d) of Article (1)1 are met, to choose the appropriate resolution actions or to ensure the effective application of one or more resolution tools.***

***The decision to exercise the suspension power to avoid the further deterioration of the financial conditions of the institution or to reach the determination that the conditions under Article 32(1)(b) and (c) are met is made by the resolution authority, after consulting the competent authority.***

Or. en

**Amendment 141**  
**Syed Kamall**

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

*Text proposed by the Commission*

1. Member States **shall establish** that their respective **competent** authority, **after having consulted** the resolution authority, **can exercise the power referred to in point (i) of Article 27 (1) only where** the exercise of the suspension power is necessary to **carry out the assessment provided for in the first sentence of Article 27(1) or to make the determination provided for in point (a) of Article 32(1).**

*Amendment*

1. Member States **may provide** that their respective **resolution** authority **has the power to suspend payment or delivery obligations to which an institution or an entity referred to in points b), c) or d) of Article 1(1) is party when** the resolution authority, **after the determination that the institution is failing or likely to fail pursuant to Article 32 (1) (a) has been made, decides that** the exercise of the suspension power is necessary to **reach** the determination **that the conditions under Article 32 (1) (b) and (c) are met or to choose the appropriate resolution actions.**

Or. en

*Justification*

*This alternative amendment provides Member States with the option to suspend payment or delivery options*

**Amendment 142**  
**Burkhard Balz**

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

*Text proposed by the Commission*

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

*Amendment*

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

shall *in any event* not exceed 5 working days.

shall not exceed 5 working days *except in duly justified cases where extraordinary circumstances may require a longer period of suspension.*

Or. en

### **Amendment 143**

**Ernest Urtasun**

on behalf of the Verts/ALE Group

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

##### **Article 1 – paragraph 19**

Directive 2014/59/EU

Article 29a – paragraph 2

#### *Text proposed by the Commission*

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

#### *Amendment*

2. The suspension referred to in paragraph 1 shall not exceed the minimum period of time that the competent authority considers necessary to carry out the assessment referred to in point (a) of Article 27(1) or to make the determination referred to in point (a) of Article 32(1) and shall *as a general rule* not exceed 3 working days. *Such period may be renewed only once up to three working days maximum.*

Or. en

### **Amendment 144**

**Jonás Fernández**

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

##### **Article 1 – paragraph 19**

Directive 2014/59/EU

Article 29a – paragraph 2

#### *Text proposed by the Commission*

2. The suspension referred to in paragraph 1 shall not exceed the minimum period of time that the *competent* authority

#### *Amendment*

2. The *period of* suspension referred to in paragraph 1 shall not exceed the minimum period of time that the *resolution*

considers necessary *to carry out the assessment referred to in point (a) of Article 27(1) or to make the determination referred to in point (a) of Article 32(1) and shall* in any event not exceed 5 *working* days.

authority considers necessary *for the purposes indicated in paragraph 1 of this Article and* in any event *shall* not exceed 5 days.

Or. en

**Amendment 145**  
**Syed Kamall**

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

*Text proposed by the Commission*

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

*Amendment*

2. The suspension referred to in paragraph 1 shall not exceed the minimum period of time that the *resolution* authority considers necessary to carry out the assessment referred to in point (a) *(b) and (c)* of Article 32(1) and shall not exceed 2 working days.

Or. en

*Justification*

*This alternative amendment ensures the provision is in line with the internationally agreed 2 days*

**Amendment 146**  
**Brian Hayes**

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

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 147**  
**Markus Ferber**

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

*Text proposed by the Commission*

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

*Amendment*

2. The suspension referred to in paragraph 1 shall not exceed the minimum period of time that the competent authority considers necessary to carry out the assessment referred to in point (a) of Article 27(1) or to make the determination referred to in point (a) of Article 32(1) and shall in any event not exceed **7** working days.

Or. en

*Justification*

*In case of complex resolution cases (e.g. selling parts of a bank), a longer moratorium period than five working days might be necessary.*

**Amendment 148**  
**Danuta Maria Hübner, Dariusz Rosati**

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

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 149**  
**Burkhard Balz**

**Proposal for a directive**  
**Article 1 – paragraph 19**  
Directive 2014/59/EU  
Article 29a – paragraph 3 – point c

*Text proposed by the Commission*

*(c) covered deposits.*

*Amendment*

*deleted*

Or. en

**Amendment 150**  
**Markus Ferber**

**Proposal for a directive**  
**Article 1 – paragraph 19**  
Directive 2014/59/EU  
Article 29a – paragraph 3 – point c

*Text proposed by the Commission*

*(c) covered deposits.*

*Amendment*

*deleted*

*Justification*

*If covered deposits are excluded from the moratorium provisions, bank runs will be inevitable.*

**Amendment 151**  
**Jonás Fernández**

**Proposal for a directive**  
**Article 1 – paragraph 19**  
Directive 2014/59/EU  
Article 29a – paragraph 3 – point c

*Text proposed by the Commission*

*Amendment*

**(c) covered deposits.**

***deleted***

Or. en

**Amendment 152**  
**Syed Kamall**

**Proposal for a directive**  
**Article 1 – paragraph 19**  
Directive 2014/59/EU  
Article 29a – paragraph 3 – point c a (new)

*Text proposed by the Commission*

*Amendment*

**(c a) financial contracts.**

Or. en

*Justification*

*To counteract any possible negative consequences to the economy and to ensure financial stability, this amendment excludes financial contracts as they are defined in Article 2(1)(100) from the scope.*

## Amendment 153

Ernest Urtasun

on behalf of the Verts/ALE Group

### Proposal for a directive

#### Article 1 – paragraph 19

Directive 2014/59/EU

Article 29a – paragraph 3 – point c a (new)

*Text proposed by the Commission*

*Amendment*

*(c a) deposits referred to in point (a) of Article 108(1).*

Or. en

## Amendment 154

Jonás Fernández

### Proposal for a directive

#### Article 1 – paragraph 19

Directive 2014/59/EU

Article 29a – paragraph 4

*Text proposed by the Commission*

*Amendment*

4. When exercising a power under this Article, **competent** authorities shall have regard to the impact the exercise of that power might have on the orderly functioning of financial markets.

4. When exercising a power under this Article, **resolution** authorities shall have regard to the impact the exercise of that power might have on the orderly functioning of financial markets. ***The resolution authorities shall have the power to set the scope of the power to suspend payment or delivery obligations to the needs of the concrete case. In particular, resolution authorities shall carefully assess the opportunity to extend the suspension to covered deposits.***

***Member states shall ensure that when the resolution authority exercises the power to suspend payment or delivery obligations in relation to covered deposits, depositors have access to an appropriate daily amount to cover the cost of living.***

Or. en



## Amendment 155

Brian Hayes

### Proposal for a directive

#### Article 1 – paragraph 19

Directive 2014/59/EU

Article 29a – paragraph 4

#### *Text proposed by the Commission*

4. ***When exercising*** a power under this Article, competent authorities shall ***have regard to*** the impact the exercise of that power might have on the orderly functioning of financial markets.

#### *Amendment*

4. ***In determining whether to exercise*** a power under this Article, competent authorities shall ***come to a decision on the basis of an assessment of*** the impact the exercise of that power might have on the orderly functioning of financial markets.

Or. en

## Amendment 156

Syed Kamall

### Proposal for a directive

#### Article 1 – paragraph 19

Directive 2014/59/EU

Article 29a – paragraph 4

#### *Text proposed by the Commission*

4. When exercising a power under this Article, ***competent*** authorities shall have regard to the impact the exercise of that power might have on the orderly functioning of financial markets.

#### *Amendment*

4. When exercising a power under this Article, ***resolution*** authorities shall have regard to the impact the exercise of that power might have on the orderly functioning of financial markets.

Or. en

#### *Justification*

*Resolution authorities are the relevant authority.*

## Amendment 157

Jonás Fernández

**Proposal for a directive**  
**Article 1 – paragraph 19**  
Directive 2014/59/EU  
Article 29a – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

**4 a. The covered deposits to which the power to suspend payment or delivery obligations is exercised shall not be considered as being unavailable for the purposes of Article 2(1)(8) of Directive 2014/49/EU.**

Or. en

**Amendment 158**  
**Ernest Urtasun**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 1 – paragraph 19**  
Directive 2014/59/EU  
Article 29a – paragraph 6

*Text proposed by the Commission*

*Amendment*

6. When payment or delivery obligations under a contract are suspended pursuant to paragraph 1, the payment or delivery obligations of the entity's counterparties under that contract shall be suspended for the same period of time.

6. When payment or delivery obligations under a contract are suspended pursuant to paragraph 1, the payment or delivery obligations of the entity's counterparties under that contract shall be suspended for the same period of time.  
***Member States shall ensure that competent authorities may determine and apply, taking due account of the market rates, accrued interests for the payment or delivery obligations under suspension.***

Or. en

**Amendment 159**  
**Jonás Fernández**

**Proposal for a directive**  
**Article 1 – paragraph 19**  
Directive 2014/59/EU  
Article 29a – paragraph 7

*Text proposed by the Commission*

7. Member States shall ensure that **competent authorities notify the** resolution authorities **about the exercise of any power** referred to in paragraph 1 without delay.

*Amendment*

7. Member States shall ensure that resolution authorities **follow the notification procedure set out in Articles 82 and 83 in exercising the powers** referred to in paragraph 1 without delay.

Or. en

**Amendment 160**  
**Brian Hayes**

**Proposal for a directive**  
**Article 1 – paragraph 19**  
Directive 2014/59/EU  
Article 29a, paragraph 7

*Text proposed by the Commission*

7. Member States shall ensure that competent authorities **notify** the resolution authorities about the exercise of any power referred to in paragraph 1 without delay.

*Amendment*

7. Member States shall ensure that competent authorities **consult** the resolution authorities about the exercise of any power referred to in paragraph 1 without delay.

Or. en

**Amendment 161**  
**Syed Kamall**

**Proposal for a directive**  
**Article 1 – paragraph 19**  
Directive 2014/59/EU  
Article 29a – paragraph 7

*Text proposed by the Commission*

7. Member States shall ensure that **competent** authorities notify the **resolution**

*Amendment*

7. Member States shall ensure that **resolution** authorities notify the **competent**

authorities about the exercise of any power referred to in paragraph 1 without delay.

authorities about the exercise of any power referred to in paragraph 1 without delay.

Or. en

**Amendment 162**  
**Syed Kamall**

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

*Text proposed by the Commission*

*Amendment*

**8. Member States that make use of the option laid down in Article 32 (2) shall ensure that the suspension power referred to in paragraph 1 of this Article can also be exercised by the resolution authority, after having consulted the competent authority, where the exercise of that suspension power is necessary to make the determination provided for in point (a) of Article 32(1).**

**deleted**

Or. en

**Amendment 163**  
**Jonás Fernández**

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

*Text proposed by the Commission*

*Amendment*

**8. Member States *that make use of the option laid down in Article 32 (2) shall ensure that* the suspension power referred to in paragraph 1 of this Article can *also be exercised by the resolution authority, after having consulted the competent authority, where the exercise of that suspension***

**8. Member States *may have the national rules related to* the suspension power referred to in paragraph 1 of this Article *applicable to institutions which can be wound down in normal insolvency proceedings and that exceed the scope and duration foreseen in this Article. The***

*power is necessary to make the determination* provided for in *point (a) of Article 32(1)*.

*conditions* provided for in *this Article shall be without prejudice to the conditions related to such power of suspension payment or delivery obligations*.

Or. en

#### **Amendment 164**

**Ernest Urtasun**

on behalf of the Verts/ALE Group  
**Sven Giegold, Philippe Lamberts**

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

**Article 1 – paragraph 19 a (new)**

Directive 2014/59/EU

Article 31 – paragraph 2 – subparagraph 2

#### *Present text*

When pursuing the above objectives, the resolution authority shall seek to minimise the cost of resolution and avoid destruction of value unless necessary to achieve the resolution objectives.

#### *Amendment*

**19 a. In Article 31(2), the second subparagraph is replaced by the following:**

"When pursuing the above objectives, the resolution authority shall seek to minimise the cost of resolution and avoid destruction of value unless necessary to achieve the resolution objectives *while taking due account of the likelihood of public funds being used when resolution is not triggered, inter alia in the context of liquidation state aid being provided due to the serious impact on the regional economy of related measures being adopted.*"

Or. en

(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)

#### **Amendment 165**

**Ernest Urtasun**

on behalf of the Verts/ALE Group  
**Sven Giegold, Philippe Lamberts**

**Proposal for a directive**  
**Article 1 – paragraph 19 b (new)**  
Directive 2014/59/EU  
Article 31 – paragraph 3

*Present text*

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*

**19 b. In Article 31, paragraph (3) is replaced by the following:**

"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 **and shall in particular consider the likely requirement for public support in insolvency.**"

Or. en

(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)

**Amendment 166**  
**Andrea Cozzolino, Luigi Morgano**

**Proposal for a directive**  
**Article 1 – paragraph 20**  
Directive 2014/59/EU  
Article 32 – paragraph 1 – point b

*Text proposed by the Commission*

(b) having regard to timing and other relevant circumstances, there is no reasonable prospect that any alternative private sector measures, including measures by an IPS, or supervisory action, including early intervention measures or the write down or conversion of relevant capital instruments **or eligible liabilities** in accordance with Article 59(2) taken in respect of the institution, would prevent the failure of the institution within a reasonable timeframe;

*Amendment*

(b) having regard to timing and other relevant circumstances, there is no reasonable prospect that any alternative private sector measures, including measures by an IPS, or **including an early intervention action of a DGS in accordance with Article 11 of Directive 2014/49/EU, or** supervisory action, including early intervention measures or the write down or conversion of relevant capital instruments in accordance with Article 59(2) taken in respect of the institution, would prevent the failure of the institution within a reasonable timeframe;

**Amendment 167**

**Ernest Urtasun**

on behalf of the Verts/ALE Group

**Sven Giegold, Philippe Lamberts**

**Proposal for a directive**

**Article 1 – paragraph 20**

Directive 2014/59/EU

Article 32 – paragraph 1 – point b

*Text proposed by the Commission*

(b) having regard to timing and other relevant circumstances, there is no reasonable prospect that any alternative private sector measures, including measures by an IPS, or supervisory action, including early intervention measures or the write down or conversion of relevant capital instruments or eligible liabilities in accordance with Article 59(2) taken in respect of the institution, would prevent the failure of the institution within a reasonable timeframe;

*Amendment*

(b) having regard to timing and other relevant circumstances, there is no reasonable prospect that any alternative private sector measures, including measures by an IPS, or supervisory action, including early intervention measures or the write down or conversion of relevant capital instruments or eligible liabilities in accordance with Article 59(2) taken in respect of the institution, would prevent the failure of the institution within a reasonable timeframe ***that shall not exceed three months;***

Or. en

**Amendment 168**

**Ernest Urtasun**

on behalf of the Verts/ALE Group

**Sven Giegold, Philippe Lamberts**

**Proposal for a directive**

**Article 1 – paragraph 20 a (new)**

Directive 2014/59/EU

Article 32 – paragraph 4

*Present text*

4. For the purposes of point (a) of

*Amendment*

***20 a. In Article 32, paragraph 4 is replaced by the following:***

"4. For the purposes of point (a) of

paragraph 1, an institution shall be deemed to be failing or likely to fail in one or more of the following circumstances:

(a) the institution infringes or there are objective elements to support a determination that the institution will, in the *near future*, infringe the requirements for continuing authorisation in a way that would justify the withdrawal of the authorisation by the competent authority including but not limited to because the institution has incurred or is likely to incur losses that will deplete *all or a significant amount* 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, in the *near future*, be less than its liabilities;

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

(d) extraordinary public financial support is required except when, in order to remedy a serious disturbance in the economy of a Member State and preserve financial stability, the extraordinary public financial support takes any of the following forms:

(i) a State guarantee to back liquidity facilities provided by central banks according to the central banks' conditions;

paragraph 1, an institution shall be deemed to be failing or likely to fail in one or more of the following circumstances:

(a) the institution infringes or there are objective elements to support a determination that the institution will, in the *next 30 days*, infringe the requirements for continuing authorisation in a way that would justify the withdrawal of the authorisation by the competent authority including but not limited to:

(i) because the institution has incurred or is likely to incur losses that will deplete *part or all* of its own funds *or*

(ii) *where there is no reasonable prospect of the institution complying with the amount of eligible liabilities and own funds held by the institution required in accordance with Articles 45c to 45g following a failure to comply with the restoration plan provided for in article 17(5)(h1);*

(b) the assets of the institution are or there are objective elements to support a determination that the assets of the institution will, in the *next 30 days*, be less than its liabilities;

(c) the institution is or there are objective elements to support a determination that the institution will, in the *next 30 days*, be unable to pay its debts or other liabilities as they fall due;

(d) extraordinary public financial support is required except when, in order to remedy a serious disturbance in the economy of a Member State and preserve financial stability, the extraordinary public financial support takes any of the following forms:

(i) a State guarantee to back liquidity facilities provided by central banks according to the central banks' conditions;



(ii) a State guarantee of newly issued liabilities; or

(iii) an injection of own funds or purchase of capital instruments at prices and on terms that do not confer an advantage upon the institution, where neither the circumstances referred to in point (a), (b) or (c) of this paragraph nor the circumstances referred to in Article 59(3) are present at the time the public support is granted.

In each of the cases mentioned in points (d)(i), (ii) and (iii) of the first subparagraph, the guarantee or equivalent measures referred to therein shall be confined to solvent institutions and shall be conditional on final approval under the Union State aid framework. Those measures shall be of a precautionary and temporary nature and shall be proportionate to remedy the consequences of the serious disturbance and shall not be used to offset losses that the institution has incurred or is likely to incur in the *near future*.

Support measures under point (d)(iii) of the first subparagraph shall be limited to injections necessary to address capital shortfall established in the national, Union or SSM-wide stress tests, asset quality reviews or equivalent exercises conducted by the European Central Bank, EBA or national authorities, *where applicable, confirmed by the competent authority*.

***EBA shall, by 3 January 2015, issue guidelines in accordance with Article 16 of Regulation (EU) No 1093/2010 on the type of tests, reviews or exercises referred to above which may lead to such support.***

***By 31 December 2015, the Commission shall review whether there is a continuing need for allowing the support measures under point (d)(iii) of the first subparagraph and the conditions that need to be met in the case of continuation and report thereon to the European***

(ii) a State guarantee of newly issued liabilities; or

(iii) an injection of own funds or purchase of capital instruments *of institutions subject to public ownership* at prices and on terms that do not confer an advantage upon the institution, where neither the circumstances referred to in point (a), (b) or (c) of this paragraph nor the circumstances referred to in Article 59(3) are present at the time the public support is granted.

In each of the cases mentioned in points (d)(i), (ii) and (iii) of the first subparagraph, the guarantee or equivalent measures referred to therein shall be confined to solvent institutions and shall be conditional on final approval under the Union State aid framework. Those measures shall be of a precautionary and temporary nature and shall be proportionate to remedy the consequences of the serious disturbance and shall not be used to offset losses that the institution has incurred or is likely to incur in the *next 30 days*.

Support measures under point (d)(iii) of the first subparagraph shall be limited to injections necessary to address capital shortfall established in the national, Union or SSM-wide stress tests, asset quality reviews or equivalent exercises conducted by the European Central Bank, EBA or national authorities,".

**Parliament and to the Council. If appropriate, that report shall be accompanied by a legislative proposal.**

Or. en

(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)

## **Amendment 169**

**Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias**

### **Proposal for a directive**

#### **Article 1 – paragraph 20 a (new)**

Directive 2014/59/EU

Article 32 – paragraph 4 – subparagraph 1 – point d

#### *Present text*

#### *Amendment*

(d) ***extraordinary*** public financial support ***is required except when, in order to remedy a serious disturbance in the economy of a Member State and preserve financial stability, the extraordinary public financial support takes any of the following forms:***

***(i) a State guarantee to back liquidity facilities provided by central banks according to the central banks' conditions;***

***(ii) a State guarantee of newly issued liabilities; or***

***(iii) an injection of own funds or purchase of capital instruments at prices and on terms that do not confer an advantage upon the institution, where neither the circumstances referred to in point (a), (b) or (c) of this paragraph nor the circumstances referred to in Article 59(3) are present at the time the public support is granted.***

***20 a. In Article 32(4), point (d) is replaced by the following:***

(d) public financial support ***would be required to continue the operation of the institution.***

Or. en

## Amendment 170

Andrea Cozzolino, Luigi Morgano

### Proposal for a directive

Article 1 – paragraph 20 a (new) Directive 2014/59/EU

Article 32 – paragraph 4 – subparagraph 1 – point d – introductory part

#### *Present text*

(d) extraordinary public financial support is required except when, in order to remedy a serious disturbance in the economy of a Member State and preserve financial stability, the extraordinary public financial support takes any of the following forms:

#### *Amendment*

**20 a. In Article 32(4), subparagraph (1), the introductory part of point (d) is replaced by the following:**

"(d) extraordinary public financial support is required except when, in order to remedy a serious disturbance in the economy of a Member State **or one of its region** and preserve financial stability, the extraordinary public financial support takes any of the following forms:"

Or. en

## Amendment 171

Andrea Cozzolino, Luigi Morgano

### Proposal for a directive

Article 1 – paragraph 20 a (new) Directive 2014/59/EU

Article 32 – paragraph 4 – subparagraph 2

#### *Present text*

In each of the cases mentioned in points (d)(i), (ii) and (iii) of the first subparagraph, the guarantee or equivalent measures referred to therein shall be confined to solvent institutions **and shall be conditional on final approval under the Union State aid framework**. Those measures shall be of a precautionary and temporary nature and shall be

#### *Amendment*

**20 a. In Article 32(4), the second subparagraph is replaced by the following:**

In each of the cases mentioned in points (d)(i), (ii) and (iii) of the first subparagraph, the guarantee or equivalent measures referred to therein shall be confined to solvent institutions. Those measures shall be of a precautionary and temporary nature and shall be proportionate to remedy the consequences of the serious disturbance and shall not be

proportionate to remedy the consequences of the serious disturbance and shall not be used to offset losses that the institution has incurred *or is likely to incur in the near future*.

used to offset losses that the institution has incurred.

Or. en

## **Amendment 172**

**Andrea Cozzolino, Luigi Morgano**

### **Proposal for a directive**

**Article 1 – paragraph 20 b (new)** Directive 2014/59/EU

Article 32 – paragraph 4 – subparagraph 3

#### *Present text*

Support measures under point (d)(iii) of the first subparagraph shall be limited to injections necessary to address capital shortfall established in the national, Union or SSM-wide stress tests, asset quality reviews or equivalent exercises conducted by the European Central Bank, EBA or national authorities, where applicable, confirmed by the competent authority.

#### *Amendment*

**20 b. In Article 32(4), the third subparagraph is replaced by the following:**

Support measures under point (d)(iii) of the first subparagraph shall be limited to injections necessary to address capital shortfall, ***including in the baseline scenario***, established in the national, Union or SSM-wide stress tests, asset quality reviews or equivalent exercises conducted by the European Central Bank, EBA or national authorities, where applicable, confirmed by the competent authority.

Or. en

## **Amendment 173**

**Esther de Lange**

### **Proposal for a directive**

**Article 1 – paragraph 20 a (new)**

Directive 2014/59/EU

Article 32 – paragraph 4 – subparagraph 3

#### *Present text*

#### *Amendment*

**20 a. In Article 32(4), subparagraph 3 is**

Support measures under point (d)(iii) of the first subparagraph shall be limited to injections necessary to address capital shortfall established in the national, Union or SSM-wide stress tests, asset quality reviews or equivalent exercises conducted by the European Central Bank, EBA or national authorities, where applicable, confirmed by the competent authority.

*replaced by the following:*

“Support measures under point (d)(iii) of the first subparagraph shall be limited to injections necessary to address capital shortfall established in the national, Union or SSM-wide stress tests, asset quality reviews or equivalent exercises conducted by the European Central Bank, EBA or national authorities, where applicable, confirmed by the competent authority. ***The injection of own funds or purchase of capital instruments can only follow after losses have been absorbed by shareholders as well as by the conversion or write down of junior and senior non-preferred debt via the instrument of bail-in.***”

Or. en

#### **Amendment 174**

**Ernest Urtasun**

on behalf of the Verts/ALE Group

**Sven Giegold, Philippe Lamberts**

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

**Article 1 – paragraph 20 b (new)**

Directive 2014/59/EU

Article 32 – paragraph 6 a (new)

*Text proposed by the Commission*

*Amendment*

***20 b. In Article 32, the following paragraph (6a) is added:***

***“6a. Taking into account, where appropriate, experience acquired in the application of the guidelines referred to in paragraph 4 of this Article, EBA shall develop draft regulatory technical standards by the end of 2020 in order to specify the different circumstances when an institution shall be considered to be failing or likely to fail as well as the methodology for calculating expected losses in case of resolution.***

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

Or. en

**Amendment 175**  
**Esther de Lange**

**Proposal for a directive**  
**Article 1 – paragraph 21 a (new)**  
Directive 2014/59/EU  
Article 33 a (new)

*Text proposed by the Commission*

*Amendment*

**21 a. The following Article 33a is inserted:**

**“Article 33a**

***Power to suspend certain obligations***

***1. Member States shall establish that their respective resolution authorities have the power to suspend payment or delivery obligations to which an institution or an entity referred to in points (b), (c) or (d) of Article 1(1) is party when the resolution authority, after the determination that the institution is failing or likely to fail pursuant to Article 32(1)(a) has been made, decides that the exercise of the suspension power is necessary to avoid the further deterioration of the financial condition of the institution or entity referred to in points (b), (c) or (d) of Article 1(1), to reach the determination that the conditions under Article 32(1)(b) and (c) are met or to choose the appropriate resolution actions.***

***The decision to exercise the suspension power to avoid the further deterioration of the financial conditions of the institution or to reach the determination that the***

*conditions under Article 32(1)(b) and (c) are met has to be made by the resolution authority, after consulting the competent authority.*

**2. Any suspension under paragraph 1 shall not apply to:**

**(a) payment and delivery obligations owed to systems or operators of systems designated for the purposes of Directive 98/26/EC, central counterparties and third country central counterparties recognised by ESMA pursuant to Article 25 of Regulation (EU) 648/2012, and central banks;**

**(b) eligible claims for the purpose of Directive 97/9/EC.**

**3. The resolution authorities may extend the suspension of payment or delivery obligations in particular to covered deposits if this is necessary to avoid a deterioration of the financial condition of the institution. When using this power, the resolution authority should carefully assess the necessity and proportionality of the suspension and the impact on depositors.**

**4. The period of the suspension pursuant to paragraph 1 shall be as short as possible and in any event not exceed 5 days.**

**5. When exercising a power under this Article, resolution authorities shall have regard to the impact the exercise of that power might have on the orderly functioning of financial markets and the institution concerned.**

**6. If an institution's payment or delivery obligations under a contract are suspended under paragraph 1, the payment or delivery obligations of the counterparties of this institution under that contract shall be suspended for the same period of time.**

**7. A payment or delivery obligation that would have been due during the**

*suspension period of paragraph 1 shall be due immediately upon expiry of that period.*

**8. Member States shall ensure that resolution authorities shall follow the notification procedure set out in Article 82 and Article 83 in exercising the powers referred to in paragraph 1 without delay.**

**9. Member States may maintain or adopt the national rules related to the suspension of payment or delivery obligation applicable to institutions which can be wound down in normal insolvency proceedings and that exceed the scope and duration foreseen in this article. The conditions provided for in this Article shall be without prejudice to the conditions related to such power of suspension payment or delivery obligations.”**

Or. en

#### *Justification*

*Moratorium tools should be used in (pre-)resolution or insolvency proceedings, should have covered deposits in scope and should - if applicable - after a maximum of five days automatically trigger the DGS. The tools would therefore be more likely to have a positive effect if in the hands of the resolution authority. The effectiveness of a moratorium on payments of a credit institution going concern, especially if covered deposits are allowed to be withdrawn or moved, is highly questionable.*

#### **Amendment 176**

**Jakob von Weizsäcker, Paul Tang**

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

**Article 1 – paragraph 21 b (new)**

Directive 2014/59/EU

Article 34 – paragraph 1 – point g

*Present text*

*Amendment*

(g) no creditor shall incur greater losses

**21 b. In Article 34(1), point (g) is replaced by the following:**

"(g) no creditor shall incur greater losses



than would have been incurred if the institution or entity referred to in point (b), (c) or (d) of Article 1(1) had been wound up under normal insolvency proceedings in accordance with the safeguards in Articles 73 to 75;

than would have been incurred if the institution or entity referred to in point (b), (c) or (d) of Article 1(1) had been wound up under normal insolvency proceedings in accordance with the safeguards in Articles 73 to 75, ***properly taking into account any plausible adverse effects of systemic instability and market turmoil;***"

Or. en

(<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014L0059&from=DE>)

## **Amendment 177**

**Marco Valli**

### **Proposal for a directive**

#### **Article 1 – paragraph 21 c (new)**

Directive 2014/59/EU

Article 37 – paragraph 10

#### *Present text*

10. In the very extraordinary situation of a systemic crisis, the resolution authority may seek funding from alternative financing sources through the use of government stabilisation tools provided for in Articles 56 to 58 when ***the following conditions are met:***

***(a)*** a contribution to loss absorption and recapitalisation ***equal to an amount not less than 8 % of total liabilities***

#### *Amendment*

***21 c. In Article 37, paragraph (10) is replaced by the following:***

"10. In the very extraordinary situation of a systemic crisis ***which may cause a disruption of the national or the regional economy and have a material negative impact on depositors, creditors and other stakeholders***, the resolution authority may seek funding from alternative financing sources through the use of government stabilisation tools provided for in Articles 56 to 58, when a contribution to loss absorption and recapitalisation has been made by the shareholders and the holders of other instruments of ownership, the holders of relevant capital instruments and other eligible liabilities ***held by professional investors*** through write down ***or*** conversion.

*including own funds of the institution under resolution, measured at the time of resolution action in accordance with the valuation provided for in Article 36, has been made by the shareholders and the holders of other instruments of ownership, the holders of relevant capital instruments and other eligible liabilities through write down, conversion **or otherwise**;*

*(b) it shall be conditional on prior and final approval under the Union State aid framework.*

Or. en

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0059&from=EN>)*

**Amendment 178**  
**Marco Valli**

**Proposal for a directive**

**Article 1 – paragraph 21 d (new)**

Directive 2014/59/EU

Article 44 – paragraph 2 – subparagraph 1 – point a (new)

*Text proposed by the Commission*

*Amendment*

***21 d. In Article 44(2), the following point (aa) is inserted:***

***“(aa) deposits from natural persons and micro, small and medium-sized enterprises which exceeds the coverage level referred to in Article 6 of Directive 2014/49/EU;”***

Or. en

*Justification*

*Deposits of natural persons and SMEs above EUR 100.000 shall be excluded from the bail-in tool.*

**Amendment 179**  
**Marco Valli**

PE616.823v02-00

114/123

AM1144712EN.docx

**Proposal for a directive**

**Article 1 – paragraph 21 e (new)**

Directive 2014/59

Article 44 – paragraph 2 – subparagraph 1 – point a b (new)

*Text proposed by the Commission*

*Amendment*

**21 e. In Article 44(2), the following point (ab) is inserted:**

**“(ab) all liabilities existing at 31 December 2015;”**

Or. en

*Justification*

*Non-retroactivity of bail in. Liabilities issued before 1 January 2016 shall be excluded from the scope of bail-in tool.*

**Amendment 180**

**Marco Valli**

**Proposal for a directive**

**Article 1 – paragraph 21 f (new)**

Directive 2014/59

Article 44 – paragraph 2 – subparagraph 1 – point b a (new)

*Text proposed by the Commission*

*Amendment*

**21 f. In Article 44(2), the following point (ba) is inserted:**

**“(ba) senior liabilities which are not classified as non-preferred senior debt;”**

Or. en

**Amendment 181**

**Marco Valli**

**Proposal for a directive**

**Article 1 – paragraph 21 g (new)**

Directive 2014/59/EU

Article 44 – paragraph 2 – subparagraph 1 – point b b (new)

*Text proposed by the Commission*

*Amendment*

**21 g. In Article 44(2), the following point (bb) is inserted:**

**“(bb) liabilities held by retail investors;”**

Or. en

## **Amendment 182**

**Pedro Silva Pereira, Neena Gill, Luigi Morgano, Andrea Cozzolino, Roberto Gualtieri, Doru-Claudian Frunzulică, Costas Mavrides**

### **Proposal for a directive**

**Article 1 – paragraph 22 a (new)**

Directive 2014/59/EU

Article 44 – paragraph 2 – subparagraph 1 – point g a (new)

*Text proposed by the Commission*

*Amendment*

**22 a. In Article 44(2), the following point (ga) is added:**

**“(ga) deposits by public authorities.”**

Or. en

### *Justification*

*Deposits by public authorities should be excluded from the scope of the bail-in tool because this is contrary to the spirit of the bail-in that it is to prevent the involvement of taxpayers' money.*

## **Amendment 183**

**Stanisław Ożóg**

### **Proposal for a directive**

**Article 1 – paragraph 22 a (new)** Directive 2014/59/EU

Article 44 – paragraph 2 – subparagraph 1 – point g a (new)

*Text proposed by the Commission*

*Amendment*

**22 a. In Article 44(2), the following point (ga) is added:**

***“(ga) liabilities to institutions or entities referred to in point (b), (c) or (d) of Article 1(1) that are part of the same resolution group without being themselves resolution entity, regardless of their maturities except where these liabilities rank below ordinary unsecured liabilities under the relevant national law setting the hierarchy of claims applicable on the date of transposition of this Directive. Where the previous subparagraph applies, the resolution authority of the relevant subsidiary that is not a resolution entity shall assess whether the amount of instruments complying with Article 45g(3) is sufficient to support the implementation of the preferred resolution strategy.***

Or. en

#### *Justification*

*According to the current BRRD the exposures of subsidiaries on their parent company are bail-in able. Such solution implies that in a situation where the bail-in tool is applied at the level of the resolution entity (i.e. parent company) the losses are downstreamed to its subsidiaries. This is contrary to the idea of the SPE strategy according to which all the losses of the group should be upstreamed and absorbed the level of the parent company. It is worth mentioning that this problem is likely to increase in the run up to a crisis when the parent company tries to reallocate liquidity among subsidiaries according to their needs. Therefore we suggest excluding the intragroup exposures from the scope of bail-in in order to ensure that the SPE strategy is operational in group resolution cases.*

#### **Amendment 184**

**Tom Vandenkendelaere, Sander Loones, Hugues Bayet, Dariusz Rosati, Lieve Wierinck, Livia Járóka, Danuta Maria Hübner**

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

**Article 1 – paragraph 22 a (new)**

Directive 2014/59/EU

Article 44 – paragraph 2 – subparagraph 1 – point g a (new)

*Text proposed by the Commission*

*Amendment*

***22 a. In Article 44(2), the following point (ga) is added:***

*“(ga) liabilities to institutions or entities referred to in point (b), (c) or (d) of Article 1(1) that are part of the same resolution group without being themselves resolution entity, regardless of their maturities except where these liabilities rank below ordinary unsecured liabilities under the relevant national law setting the hierarchy of claims applicable on the date of transposition of this Directive. Where the previous subparagraph applies, the resolution authority of the relevant subsidiary that is not a resolution entity shall assess whether the amount of instruments complying with Article 45g (3) is sufficient to support the implementation of the preferred resolution strategy.*

Or. en

#### *Justification*

*In the current framework, the exposures of a subsidiary on its parent company are in the scope of bail-in. This means that where the bail-in is applied on the parent company, the bail-in of intragroup exposures will imply a downstream of losses to the subsidiaries of the group. This is inconsistent with a resolution strategy that covers both the parent company and its subsidiaries (i.e. SPE strategy) and according to which all the losses of the group are expected to be channeled out at the level of the parent company and absorbed by the shareholders and external creditors of the parent company. In addition, this problem is likely to increase in the run up to a crisis when the parent company tries to reallocate liquidity from subsidiaries which still have liquidity to subsidiaries which are in need of funds. As a result, we suggest excluding these intragroup exposures from the scope of bail-in in order to avoid jeopardising the effective implementation of SPE strategies.*

#### **Amendment 185**

**Mady Delvaux, Hugues Bayet**

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

**Article 1 – paragraph 22 a (new)**

Directive 2014/59/EU

Article 44 – paragraph 2 – subparagraph 1 – point g a (new)

*Text proposed by the Commission*

*Amendment*

**22 a. In Article 44(2), the following**

*point (ga) is added:*

*'(ga) liabilities to institutions or entities referred to in point (b), (c) or (d) of Article 1(1) that are part of the same resolution group without being themselves resolution entity, regardless of their maturity;'*

Or. en

#### *Justification*

*In order to preserve the operationality of the SPE strategy, exposures of subsidiaries on entities belonging to the same resolution group should be excluded from bail-in. A bail-in of intragroup exposures, as currently possible, would imply a downstream of losses from the resolution entity to its subsidiaries. This contradicts the objective of the SPE strategy and would reduce the actual capacity of a subsidiary to upstream its own losses.*

#### **Amendment 186**

**Ernest Urtasun**

on behalf of the Verts/ALE Group

**Sven Giegold, Philippe Lamberts**

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

**Article 1 – paragraph 22 b (new)**

Directive 2014/59/EU

Article 44 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**22 b. In Article 44 the following paragraph 2a is inserted;**

***“2a. Member States shall prohibit the institutions or entities referred to in points (b), (c) or (d) of Article 1(1) from making any suggestion, communication or representation that a liability other than those listed in points (a) to (g) of paragraph 2 of this Article would not be subject to write-down or conversion powers. Any breach to such prohibition shall be subject to administrative penalties and other administrative measures in accordance with Article 110 and Article 111.***

**Amendment 187**

**Ernest Urtasun**

on behalf of the Verts/ALE Group

**Sven Giegold, Philippe Lamberts**

**Proposal for a directive**

**Article 1 – paragraph 22 c (new)**

Directive 2014/59/EU

Article 44 – paragraph 2 b (new)

*Text proposed by the Commission*

*Amendment*

**22 c. In Article 44 the following paragraph 2b is inserted;**

**2b. Member States shall ensure that, for the purposes of Article 25 of Directive 2014/65/EU the debt instruments referred to in paragraph 2 of Article 108 are considered complex and that the provisions in that Directive concerning conflict of interest are strictly enforced in relation to the sale of such instruments to existing clients of the issuing institution. Member States shall ensure that investment firms are regarded as not fulfilling their obligations under Directive 2014/65/EU where they pay or are paid any fee or commission, or provide or are provided with any non-monetary benefit or whenever they do not disclose specific internal sales guidelines in connection with the marketing of senior non-preferred debt to investors not qualifying as professionals under that Directive.**

Or. en

**Amendment 188**

**Ernest Urtasun**

on behalf of the Verts/ALE Group

**Sven Giegold, Philippe Lamberts**



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

*Text proposed by the Commission*

*Amendment*

**22 c. In Article 44 the following paragraph 2c is inserted;**

**2c. Resolution authorities shall, as part of the assessment of resolvability in accordance with Articles 15 and 16 monitor the extent to which debt instruments susceptible to bail-in are held by investors that do not qualify as professional investors according to Directive 2014/65/EU and report the results to EBA at least once per year. EBA shall disclose annually on a group or, where relevant, institution specific basis the amounts of debt instruments susceptible to bail-in that are held by investors that do not qualify as professional investors.**

**Where, on the basis of this information, EBA deems it necessary, it shall issue warnings or recommendations for remedial action.**

Or. en

**Amendment 189**  
**Marco Valli**

**Proposal for a directive**  
**Article 1 – paragraph 22 c (new)**  
Directive 2014/59/EU  
Article 44 – paragraph 5 – point a

*Present text*

*Amendment*

(a) a contribution to loss absorption and recapitalisation ***equal to an amount not less than 8 % of the total liabilities***

**22 c. In Article 44(5), point (a) is replaced by the following:**

"(a) a contribution to loss absorption and recapitalisation has been made by the shareholders and the holders of other

*including own funds of the institution under resolution, measured at the time of resolution action in accordance with the valuation provided for in Article 36, has been made by the shareholders and the holders of other instruments of ownership, the holders of relevant capital instruments and other eligible liabilities through write down, conversion **or otherwise**; and*

instruments of ownership, the holders of relevant capital instruments and other eligible liabilities *of the institution under resolution, measured at the time of resolution action in accordance with the valuation provided for in Article 36, through write down **or** conversion;*"

Or. en

(<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0059&from=EN>)

#### *Justification*

*The contribution for loss absorption and recapitalisation shall be requested only for the level necessary to ensure that bank losses are borne by investors that have sufficient loss-bearing capacity and retail savers are protected. On the basis of the first experience with the application of the BRRD, this is essential to avoid adverse effects on the socio-economic stability and preserve the general confidence in the banking sector.*

#### **Amendment 190**

**Luigi Morgano, Andrea Cozzolino**

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

**Article 1 – paragraph 22 c (new)**

Directive 2014/59/EU

Article 44 – paragraph 5 – point a

#### *Present text*

(a) a contribution to loss absorption and recapitalisation equal to an amount not less than **8 %** of the total liabilities including own funds of the institution under resolution, measured at the time of resolution action in accordance with the valuation provided for in Article 36, has been made by the shareholders and the holders of other instruments of ownership, the holders of relevant capital instruments and other eligible liabilities through write down, conversion or otherwise; and

#### *Amendment*

**22 c. In Article 44(5), point (a) is replaced by the following:**

"(a) a contribution to loss absorption and recapitalisation equal to an amount not less than **4%** of the total liabilities including own funds of the institution under resolution, measured at the time of resolution action in accordance with the valuation provided for in Article 36, has been made by the shareholders and the holders of other instruments of ownership, the holders of relevant capital instruments and other eligible liabilities through write down, conversion or otherwise; and"

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0059>)*