



2016/0362(COD)

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AMENDMENTS

191 - 507

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 191
Marco Valli

Proposal for a directive
Article 1 – paragraph 23
Directive 2013/59/EU
Article 45 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that institutions and entities *referred to in points (b),(c) and (d) of Article 1(1)* meet, at all times, a requirement for own funds and eligible liabilities in accordance with Articles 45 to 45i.

Amendment

1. Member States shall ensure that institutions and entities *identified as G-SIIs and O-SIIs in accordance with Article 131 of Directive 2013/36/EU* meet, at all times, a requirement for own funds and eligible liabilities in accordance with Articles 45 to 45i.

Or. en

Justification

The MREL requirement shall apply only to systemic institutions.

Amendment 192
Marco Zanni, Bernard Monot, Gerolf Annemans

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45 – paragraph 2 – point a

Text proposed by the Commission

(a) the total *risk exposure amount* of the relevant entity *referred to in paragraph 1 calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013*,

Amendment

(a) the total *liabilities* of the relevant entity,

Or. en

Amendment 193
Olle Ludvigsson

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The institutions and entities referred to in points (b), (c) and (d) of Article 1(1) shall be allowed to meet part of the requirement referred to in paragraph 1 with debt, thereby allowing for higher systemic risk buffers.

Or. en

Amendment 194
Marco Valli

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59
Article 45 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Resolution authorities, after consulting the competent authorities, shall provide for a transitional period of [six years from the date of application of this amending Directive] for institutions to comply with the MREL requirement.

Or. en

Justification

A transitional period is necessary to allow institutions to comply with the MREL requirement.

Amendment 195
Burkhard Balz

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. *A resolution authority may grant entity-specific transitional periods for the application of paragraph 1 only in exceptional circumstances and as a maximum until 31 December 2021. In case a transitional period is granted, the resolution authority shall ensure that the relevant entity takes measures towards achieving compliance with paragraph 1 as quickly as possible. The resolution authority shall communicate to the relevant entity a planned MREL target for every 12 months period during the transitional period.*

Or. en

Amendment 196
Anne Sander, Alain Cadec, Alain Lamassoure

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. *For each institution affiliated to cooperative institutions, authorities shall consider adding to own funds and eligible liabilities of this institution the irrevocable financial support provided by other affiliated institutions through legally-based internal solidarity mechanism to fulfil the requirement.*

Or. en

Justification

When an internal solidarity mechanism is set up, affiliated institutions benefit from the irrevocable support in own funds of other affiliated entities. Even if such irrevocable financial support is not reflected in the financial statements of affiliated entity, own funds of other affiliated entities should legitimately be added to the numerator of this affiliated entity.

Amendment 197 **Thierry Cornillet**

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. For each institution affiliated to cooperative institutions, authorities shall consider adding to own funds and eligible liabilities of this institution the irrevocable financial support provided by other affiliated institutions through legally-based internal solidarity mechanism to fulfil the requirement.

Or. en

Justification

When an internal solidarity mechanism is set up, affiliated institutions benefit from the irrevocable support in own funds of other affiliated entities. It is important to preserve the diversity of business models within the EU banking sector.

Amendment 198 **Markus Ferber, Werner Langen**

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. *Where the resolution plan provides for no resolution action to be taken pursuant to Article 32, including if the entity is to be wound up under normal insolvency proceedings, the entity should not be subject to MREL.*

Or. en

Justification

When resolution authorities determine (in resolution 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 requirement.

Amendment 199

Marco Valli

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. *The institutions and entities subject to the requirement referred to in paragraph 1 may meet any part of the requirement with common equity tier 1, additional tier 1 or tier 2 instruments.*

Or. en

Amendment 200

Marco Valli

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59

Article 45 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. Resolution authorities, after consulting the competent authorities, shall provide for a transitional period of [six years from the date of application of this amending Directive] for institutions to comply with the MREL requirement.

Or. en

Justification

A transitional period is necessary to allow institutions to comply with the MREL requirement.

Amendment 201
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45b – paragraph 1

Text proposed by the Commission

Amendment

1. Eligible liabilities shall be included in the amount of own funds and eligible liabilities of resolution entities only where they satisfy the conditions referred to in Article 72a, except for point (d) of Article 72b(2) of Regulation (EU) No 575/2013.

1. Eligible liabilities shall be included in the amount of own funds and eligible liabilities of resolution entities only where they satisfy the conditions referred to in Article 72a, except for point (d) of Article 72b(2) of Regulation (EU) No 575/2013 **if it can be justified that the exclusion of the criteria in point (d) would not materially affect resolvability.**

Or. en

Amendment 202
Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias

Proposal for a directive
Article 1 – paragraph 23

Text proposed by the Commission

1. Eligible liabilities shall be included in the amount of own funds and eligible liabilities of resolution entities only where they satisfy the conditions referred to in Article 72a, **except for point (d) of Article 72b(2)** of Regulation (EU) No 575/2013.

Amendment

1. Eligible liabilities shall be included in the amount of own funds and eligible liabilities of resolution entities only where they satisfy the conditions referred to in Article 72a of Regulation (EU) No 575/2013.

Or. en

Amendment 203

Pedro Silva Pereira, Jonás Fernández, Neena Gill, Luigi Morgano, Andrea Cozzolino, Roberto Gualtieri, Doru-Claudian Frunzuliță, Costas Mavrides

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45b – paragraph 1 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Justification

The BRRD should provide for a grandfathering clause for all the eligible liabilities items issued prior to the date of application of the MREL provisions in CRR that do not meet the criteria that will be introduced by this proposal (ie, the criteria in Article 72b(2) CRR, points (g) to (o)). This should apply both to MREL Pillar 1 as well as to MREL Pillar 2, in their subordinated and non-subordinated components.

Amendment 204

Markus Ferber

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45b – paragraph 1 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Justification

Full grandfathering for existing liabilities.

Amendment 205

Burkhard Balz

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45b – paragraph 2

Text proposed by the Commission

Amendment

2. By way of derogation from point (l) of Article 72a(2) of Regulation (EU) No 575/2013, liabilities that arise from debt instruments with derivative features, such as structured notes, shall be included in the amount of own funds and eligible liabilities only where all of the following conditions are met:

deleted

(a) a given amount of the liability arising from the debt instrument is known

in advance at the time of issuance, is fixed and not affected by a derivative feature;

(b) the debt instrument, including its derivative feature, is not subject to any netting agreement and its valuation is not subject to Article 49(3);

The liabilities referred to in the first subparagraph shall only be included in the amount of own funds and eligible liabilities for the part that corresponds with the amount referred to in point (a) of the first subparagraph.

Or. en

Amendment 206

Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45b – paragraph 2

Text proposed by the Commission

Amendment

By way of derogation from point (l) of Article 72a(2) of Regulation (EU) No 575/2013, liabilities that arise from debt instruments with derivative features, such as structured notes, shall be included in the amount of own funds and eligible liabilities only where all of the following conditions are met:

deleted

(a) a given amount of the liability arising from the debt instrument is known in advance at the time of issuance, is fixed and not affected by a derivative feature;

(b) the debt instrument, including its derivative feature, is not subject to any netting agreement and its valuation is not subject to Article 49(3);

Or. en

Amendment 207
Syed Kamall

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45b – paragraph 2

Text proposed by the Commission

Amendment

By way of derogation from point (l) of Article 72a(2) of Regulation (EU) No 575/2013, liabilities that arise from debt instruments with derivative features, such as structured notes, shall be included in the amount of own funds and eligible liabilities only where all of the following conditions are met:

deleted

(a) a given amount of the liability arising from the debt instrument is known in advance at the time of issuance, is fixed and not affected by a derivative feature;

(b) the debt instrument, including its derivative feature, is not subject to any netting agreement and its valuation is not subject to Article 49(3);

Or. en

Justification

Structured notes should not be eligible for MREL, in accordance with the TLAC standard.

Amendment 208
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45b – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

By way of derogation from point (l) of Article 72a(2) of Regulation (EU) No 575/2013, liabilities that arise from debt

Liabilities that arise from debt instruments with **embedded derivatives**, such as structured notes **and principal protected**

instruments with *derivative features*, such as structured notes, shall be *included* in the amount of own funds and eligible liabilities *only where* all of the following conditions are met:

certificates, shall be *excluded* in the amount of own funds and eligible liabilities *unless* all of the following conditions are met:

Or. en

Amendment 209
Syed Kamall

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45b – paragraph 2 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) *a given amount of the liability arising from the debt instrument is known in advance at the time of issuance, is fixed and not affected by a derivative feature;* *deleted*

Or. en

Justification

As per earlier justification, these should not be eligible under MREL.

Amendment 210
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45b – paragraph 2 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) *a given amount of the liability arising from the debt instrument is known in advance at the time of issuance, is fixed and not affected by a derivative feature;*

(a) *the principal of the debt instrument is protected in whole or in part, such protection not being affected by any embedded derivative, and the amount protected is known in advance at the date*

of issuance *for all future periods up to maturity, and is a fixed, or increasing, amount.*

Or. en

Amendment 211
Thierry Cornillet

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45b – paragraph 2 – subparagraph 1 – point a

Text proposed by the Commission

(a) a given amount of the liability arising from the debt instrument is known in advance *at the time of issuance*, is fixed and not affected by a derivative feature;

Amendment

(a) a given amount of the liability arising from the debt instrument is known in advance *until maturity* is fixed *or only increasing from a certain floor amount* and not affected by a derivative feature;

Or. en

Justification

Simple structured notes with certain a portion of the nominal being fixed or increasing, and known at all times until maturity should not be disqualified from MREL and be eligible for the portion corresponding to this amount.

Amendment 212
Syed Kamall

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45b – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

(b) *the debt instrument, including its derivative feature, is not subject to any netting agreement and its valuation is not subject to Article 49(3);*

Amendment

deleted

Amendment 213
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45b – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

(b) the debt instrument, including its derivative **feature**, is not subject to any netting agreement and its valuation is not subject to Article 49(3);

Amendment

(b) the debt instrument, including its **embedded** derivative, is not subject to any netting agreement and its valuation is not subject to Article 49(3);

Or. en

Amendment 214
Ernest Urtasun, Sven Giegold, Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45b – paragraph 2 – subparagraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(b a) the entity has demonstrated to the satisfaction of the resolution authority that the instrument is sufficiently loss absorbing and can be bailed-in without undue complexity.

Or. en

Amendment 215
Syed Kamall

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU
Article 45b – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

The liabilities referred to in the first subparagraph shall only be included in the amount of own funds and eligible liabilities for the part that corresponds with the amount referred to in point (a) of the first subparagraph.

deleted

Or. en

Amendment 216

Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU
Article 45b – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

The liabilities referred to in the first subparagraph shall only be included in the amount of own funds and eligible liabilities for the part that corresponds with the amount referred to in point (a) of the first subparagraph.

deleted

Or. en

Amendment 217

Barbara Kappel

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU
Article 45b – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

The liabilities referred to in the first subparagraph shall only be included in the

The liabilities referred to in the first subparagraph shall only be included in the

amount of own funds and eligible liabilities for the part that corresponds with the amount referred to in point (a) of the first subparagraph.

amount of own funds and eligible liabilities for the part that corresponds with the amount referred to in point (a) of the first subparagraph, *as this amount does not contain any embedded derivative*.

Or. en

Amendment 218
Thierry Cornillet

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45b – paragraph 2 – subparagraph 2

Text proposed by the Commission

The liabilities referred to in the first subparagraph shall only be included in the amount of own funds and eligible liabilities for the part that corresponds with the amount referred to in point (a) of the first subparagraph.

Amendment

The liabilities referred to in the first subparagraph shall only be included in the amount of own funds and eligible liabilities for the part that corresponds with the amount *or the floor amount* referred to in point (a) of the first subparagraph

Or. en

Justification

Simple structured notes with certain a portion of the nominal being fixed or increasing, and known at all times until maturity should not be disqualified from MREL and be eligible for the portion corresponding to this amount.

Amendment 219
Anne Sander, Alain Cadec, Alain Lamassoure

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45b – paragraph 3 – subparagraph 1

Text proposed by the Commission

Resolution authorities may decide that the

Amendment

Resolution authorities may decide that the

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

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

The level of the requirement that is to be covered by instruments that meet the conditions set out in Article 72b of Regulation (EU) No 575/2013 shall not exceed the level that arises or would arise from the application of Article 92a(1) of that Regulation taking into account the allowance specified in article 72b paragraph 3 and the transitional provisions specified in Article 494 of that Regulation.

Or. en

Amendment 220

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45b – paragraph 3 – subparagraph 1

Text proposed by the Commission

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

Amendment

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

For each resolution entity the level of required instruments that meet all conditions referred to in Article 72 a of Regulation (EU) No 575/2013 shall not

exceed the level of the requirement specified in Article 92a(1) of Regulation (EU) No 575/2013 taking into account the transitional provisions specified in Article 494 of that Regulation.

Or. en

Justification

The maximum level of subordinated debt which resolution authorities may impose should not be higher than that required by the TLAC term sheet.

Amendment 221
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45b – paragraph 3 – subparagraph 1

Text proposed by the Commission

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

Amendment

Resolution authorities may decide that the requirement referred to in Article 45f is *fully or partially* met by resolution entities with instruments that meet all conditions referred to in Article 72a of Regulation (EU) No 575/2013.

Or. en

Justification

Alignment with original BRRD to ensure a level of discretion w.r.t. setting the level of subordination.

Amendment 222
Burkhard Balz

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45b – paragraph 3 – subparagraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 223
Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45b – paragraph 3 – subparagraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 224
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45b – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Where the resolution authority determines that, within a class of liabilities which includes eligible liabilities, the amount of liabilities that are reasonably likely to be excluded from the application of the write-down or conversion powers in accordance with Article 44(2) or Article 44 (3) totals more than 10% of that class, it shall require the requirement laid down in Article 45(1) to be met with subordinated instruments in full or for the amount specified in the second subparagraph of paragraph 2.

Or. en

Amendment 225
Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45b – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

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

deleted

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

(b) the risk that as a result of a planned application of write-down and conversion powers to non-subordinated liabilities that are not excluded from the application of the write-down or conversion powers in accordance with Article 44(2) or Article 44(3), creditors of claims arising from those liabilities incur greater losses than they would incur in a winding up under normal insolvency proceedings;

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

Or. en

Amendment 226
Syed Kamall

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

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

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 227

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

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU
Article 45b – paragraph 3 – subparagraph 2 – introductory part

Text proposed by the Commission

Amendment

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

Such reasons ***shall be limited to*** the following elements:

Or. en

Amendment 228
Luigi Morgano, Andrea Cozzolino

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45b – paragraph 3 – subparagraph 2 – introductory part

Text proposed by the Commission

Amendment

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

The resolution authority's decision under this paragraph ***contains*** the reasons for that decision. ***These reasons are:***

Or. en

Amendment 229
Burkhard Balz

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45b – paragraph 3 – subparagraph 2 – introductory part

Text proposed by the Commission

Amendment

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

The resolution authority's ***assessment and*** decision under this paragraph shall contain, ***inter alia,*** the following elements:

Or. en

Amendment 230

Syed Kamall

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

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

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

This is required to give maximum flexibility to resolution authorities

Amendment 231

Ernest Urtasun, Sven Giegold, Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

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

Text proposed by the Commission

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

Amendment

deleted

Amendment 232

Syed Kamall

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

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

Text proposed by the Commission

Amendment

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

Or. en

Justification

Resolution authorities should have maximum flexibility to be able to set full subordination of MREL if necessary for the feasibility of the resolution strategy and to ensure the critical functions of the firm can be maintained.

Amendment 233

Burkhard Balz

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

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

Text proposed by the Commission

Amendment

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

(c) *the availability of a minimum level of a subordinated loss absorption and recapitalisation capacity and the benefits that an increased level of a subordinated loss absorption and recapitalisation capacity implies for resolvability;*

under normal insolvency proceedings.

Or. en

Amendment 234

Esther de Lange

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45b – paragraph 3 – point c

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 235

Burkhard Balz

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

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

Text proposed by the Commission

Amendment

By way of derogation from subparagraph 2, for entities designated as G-SIBs or O-SIIs and for any other resolution entity designated as systemically relevant by the resolution authority, the amount of own funds and eligible liabilities required to be met with instruments that meet all of the conditions referred to in Article 72a of Regulation (EU) No 575/2013 shall at least be equal to the higher of the following:

(i) the level that arises or would arise from the application of Article 92a (1) of Regulation (EU) No 575/2013; or

(ii) 8% of total liabilities and own funds.

A higher amount up to the full requirement referred to in Article 45f shall be required by the resolution authority, if this requirement is necessary and appropriate to implement an orderly resolution.

Or. en

Amendment 236
Markus Ferber

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45b – paragraph 3 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

For entities considered systemically relevant by the resolution authority, the amount of own funds and eligible liabilities required by a decision under this paragraph to be met with instruments that meet all of the conditions referred to in Article 72a of Regulation (EU) No 575/2013 shall at least be equal to 8% of total liabilities and own funds. An amount beyond 8% of total liabilities and own funds, including the possibility of full subordination, shall be required if the resolution authority determines that this contributes to an efficient and orderly resolution process.

Or. en

Justification

The amount of subordinated buffers should not be limited. Rather, for systemically relevant

entities, a minimum amount of 8% of total liabilities and own funds is required, in order to ensure consistency with the resolution framework, in particular 8% bail-in condition to access the resolution fund. The resolution authority shall be able to impose a higher amount if this would “contribute to an efficient and orderly resolution process”, as required by the roadmap of the Council of June 2016.

Amendment 237

Jakob von Weizsäcker, Paul Tang

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

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

Text proposed by the Commission

Amendment

The amount of own funds and eligible liabilities required by a decision under this paragraph to be met with instruments that meet all of the conditions referred to in Article 72a of Regulation (EU) No 575/2013 shall be equal to at least the level that arises or would arise from the application of Article 92a(1) of that Regulation.

Or. en

Amendment 238

Pedro Silva Pereira, Roberto Gualtieri, Luigi Morgano, Doru-Claudian Frunzuliță, Costas Mavrides

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. The requirement referred to in Article 45(1) of each entity shall be determined by the resolution authority, ***after having consulted*** the competent authority, on the basis of the following criteria:

1. The requirement referred to in Article 45(1) of each entity shall be determined by the resolution authority, ***in cooperation with*** the competent authority, on the basis of the following criteria:

Amendment 239
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 1 – point a

Text proposed by the Commission

(a) the need to ensure that the resolution **entity** can be resolved by the application of the resolution tools including, where appropriate, the bail-in tool, in a way that meets the resolution objectives;

Amendment

(a) the need to ensure that the resolution **group** can be resolved by the application of the resolution tools including, where appropriate, the bail-in tool, in a way that meets the resolution objectives;

Or. en

Amendment 240
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 1 – point b

Text proposed by the Commission

(b) the need to ensure, in appropriate cases, that the resolution entity and its subsidiaries that are institutions, but not resolution entities have sufficient eligible liabilities to ensure that, if the bail-in tool or write down and conversion powers were to be applied to them, respectively, losses could be absorbed and the **total capital ratio and** the leverage ratio in the form of Common Equity Tier 1, of the relevant entities can be restored to a level necessary to enable them to continue to comply with the conditions for authorisation and to carry on the activities for which they are

Amendment

(b) the need to ensure, in appropriate cases, that the resolution entity and its subsidiaries that are institutions, but not resolution entities have sufficient eligible liabilities to ensure that, if the bail-in tool or write down and conversion powers were to be applied to them, respectively, losses could be absorbed and the **requirements in Article 92(1)(c) of Regulation (EU) No 575/2013 and Articles 104(1)(a) and 128(6) of Directive 2013/36/EU, or** the leverage ratio in the form of Common Equity Tier 1 of the relevant entities can be restored to a level necessary to enable them

authorised under Directive 2013/36/EU or Directive 2014/65/EU;

to continue to comply with the conditions for authorisation and to **obtain sufficient market confidence** to carry on the activities for which they are authorised under Directive 2013/36/EU or Directive 2014/65/EU;

Or. en

Amendment 241
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 1 – point b

Text proposed by the Commission

(b) the need to ensure, in appropriate cases, that the resolution entity and its subsidiaries that are institutions, but not resolution entities have sufficient eligible liabilities to ensure that, if the bail-in tool or write down and conversion powers were to be applied to them, respectively, losses could be absorbed and the total capital ratio and the leverage ratio in the form of Common Equity Tier 1, of the relevant entities can be restored to a level necessary to enable them to continue to comply with the conditions for authorisation and to carry on the activities for which they are authorised under Directive 2013/36/EU or Directive 2014/65/EU;

Amendment

(b) the need to ensure, in appropriate cases, that the resolution entity and its **material** subsidiaries that are institutions, but not resolution entities have sufficient eligible liabilities to ensure that, if the bail-in tool or write down and conversion powers were to be applied to them, respectively, losses could be absorbed and the total capital ratio and the leverage ratio in the form of Common Equity Tier 1, of the relevant entities can be restored to a level necessary to enable them to continue to comply with the conditions for authorisation and to carry on the activities for which they are authorised under Directive 2013/36/EU or Directive 2014/65/EU, **in accordance with the group resolution plan**;

Or. en

Amendment 242
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU
Article 45c – paragraph 1 – point c

Text proposed by the Commission

(c) the need to ensure that, if the resolution plan anticipates that certain classes of eligible liabilities might be excluded from bail-in pursuant to Article 44(3) or might be transferred to a recipient in full under a partial transfer, the resolution entity has sufficient other eligible liabilities to ensure that losses could be absorbed and the **capital** requirements, or **as applicable**, the leverage ratio in the form of Common Equity Tier 1 of the resolution entity can be restored to a level necessary to enable it to continue to comply with the conditions for authorisation and to carry on the activities for which it is authorised under Directive 2013/36/EU or Directive 2014/65/EU;

Amendment

(c) the need to ensure that, if the resolution plan anticipates that certain classes of eligible liabilities might be excluded from bail-in pursuant to Article 44(3) or might be transferred to a recipient in full under a partial transfer, the resolution entity has sufficient other eligible liabilities to ensure that losses could be absorbed and the requirements **in Article 92(1)(c) of Regulation (EU) No 575/2013 and Articles 104(1)(a) and 128(6) of Directive 2013/36/EU**, or the leverage ratio in the form of Common Equity Tier 1 of the resolution entity can be restored to a level necessary to enable it to continue to comply with the conditions for authorisation and to carry on the activities for which it is authorised under Directive 2013/36/EU or Directive 2014/65/EU;

Or. en

Amendment 243
Alfred Sant

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 1 – point d

Text proposed by the Commission

(d) the size, the business model, the funding model and the risk profile of the entity;

Amendment

(d) the size, the business model, the funding model and the risk profile of the entity; **as well as the specificities of the market in which it operates;**

Or. en

Amendment 244
Tom Vandenkendelaere

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(d a) the need to ensure that the level of the requirement referred to in Article 45(1) is proportionate to the specificities of the following business and funding models:

(i) the prevalence of deposits in the funding structure;

(ii) the lack of experience in issuing debt instruments due to: the limited access to domestic or cross-border capital markets and the limited recourse to issuance of such instruments in light of the funding structure;

(iii) the fact that the institution will rely primarily on CET1 and AT1 instruments to meet the requirement referred to in Article 45(1).

Or. en

Amendment 245
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(d a) the need to ensure that the level of the requirement referred to in Article 45(1) is proportionate to the specificities of the business and funding models, taking into account:

- (i) the prevalence of deposits in the funding structure;*
- (ii) the reduced experience in issuing debt instruments due to the limited access to cross-border and wholesale capital markets;*
- (iii) the limited recourse to debt instruments in light of the funding structure;*
- (iv) the fact that the institution relies primarily on CET1 and capital instruments to meet the requirement referred to in Article 45(1).*

Or. en

Amendment 246
Marco Valli

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

- (d a) the need to ensure that the requirement is proportionate to the specificities of the business model and funding model, taking into account:*
- (i) the prevalence of deposits in the funding structure;*
 - (ii) the limited experience in issuing debt instruments due the limited access to cross-border and wholesale capital market;*
 - (iii) the limited recourse to debt instruments in the funding structure;*
 - (iv) the need to rely primarily on capital instruments to meet the MREL requirement;*

Or. en

Amendment 247
Mady Delvaux, Hugues Bayet

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) the extent to which the Deposit Guarantee Scheme could contribute to the financing of resolution in accordance with Article 109; **deleted**

Or. en

Justification

In order to provide for adequate depositor protection, the potential contribution of the DGS should not be used to reduce the MREL requirement.

Amendment 248
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) the extent to which the Deposit Guarantee Scheme could contribute to the financing of resolution in accordance with Article 109; **deleted**

Or. en

Amendment 249
Stanisław Ożóg

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) the extent to which the Deposit Guarantee Scheme could contribute to the financing of resolution in accordance with Article 109; **deleted**

Or. en

Justification

See: justification for the Am to Art. 45c, paragraph 7, subparagraph 2 (below)

Amendment 250
Dariusz Rosati, Danuta Maria Hübner

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) the extent to which the Deposit Guarantee Scheme could contribute to the financing of resolution in accordance with Article 109; **deleted**

Or. en

Amendment 251
Pedro Silva Pereira, Jonás Fernández, Luigi Morgano, Andrea Cozzolino, Roberto Gualtieri, Doru-Claudian Frunzulică, Costas Mavrides

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The resolution authority shall ensure that the level of the requirement referred to in Article 45(1) is proportionate to the specificities of the business and funding models of the resolution entity, taking into account:

(i) the prevalence of deposits in the funding structure;

(ii) the lack of experience in issuing debt instruments due to the limited access to cross-border and wholesale capital markets;

(iii) the fact that the institution will rely primarily on CET1 and capital instruments to meet the requirement referred to in Article 45(l).

Or. en

Justification

The new MREL requirement should be proportionate to the business model and to the funding structure of banks. The resolution authority should take due account of the specificities of deposited-funded banks, which will rely on own funds instruments to fulfil the MREL requirement.

Amendment 252
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 2 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) the losses that ***might*** expected to be incurred by the entity are fully absorbed ('loss absorption');

(a) the losses that ***are*** expected to be incurred by the entity are fully absorbed ('loss absorption');

Or. en

Amendment 253

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

(b) the entity or its subsidiaries that are institutions, but not resolution entities are recapitalised to a level necessary to enable them to continue to comply with the conditions for authorisation and to carry out the activities for which they are authorised under Directive 2013/36/EU, Directive 2014/65/EU or equivalent legislation ('recapitalisation');

Amendment

(b) the entity or its subsidiaries that are institutions, but not resolution entities are recapitalised to a level necessary to enable them to continue to comply with the conditions for authorisation and to carry out the activities for which they are authorised under Directive 2013/36/EU, Directive 2014/65/EU or equivalent legislation ('recapitalisation') ***in addition to a safety margin determined by the resolution authority as provided for in the last subparagraph of paragraph 3 of this Article;***

Or. en

Amendment 254

Esther de Lange

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

(b) the entity ***or*** its subsidiaries that are institutions, but not resolution entities are recapitalised to a level necessary to enable them to continue to comply with the conditions for authorisation and to carry out the activities for which they are authorised under Directive 2013/36/EU, Directive 2014/65/EU or equivalent

Amendment

(b) the ***resolution*** entity ***and*** its subsidiaries that are institutions, but not resolution entities are recapitalised to a level necessary to enable them to continue to comply with the conditions for authorisation and ***combined buffer requirements and*** to carry out the activities for which they are authorised under

legislation ('recapitalisation');

Directive 2013/36/EU, Directive 2014/65/EU or equivalent legislation ('recapitalisation') **and to ensure sufficient market confidence**;

Or. en

Amendment 255
Syed Kamall

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

(b) the entity or its subsidiaries that are institutions, but not resolution entities are recapitalised to a level necessary to enable them to continue to comply with the conditions for authorisation and to carry out the activities for which they are authorised under Directive 2013/36/EU, Directive 2014/65/EU or equivalent legislation ('recapitalisation');

Amendment

(b) the entity or its subsidiaries that are institutions, but not resolution entities are recapitalised to a level necessary to enable them to continue to comply with the conditions for authorisation and to **maintain sufficient market confidence to** carry out the activities for which they are authorised under Directive 2013/36/EU, Directive 2014/65/EU or equivalent legislation ('recapitalisation');

Or. en

Justification

This is in line with the EBA Regulatory Technical Standards

Amendment 256
Mady Delvaux, Hugues Bayet

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

(b) the entity **or** its subsidiaries that are institutions, but not resolution entities are recapitalised to a level necessary to enable them to continue to comply with the conditions for authorisation and to carry out the activities for which they are authorised under Directive 2013/36/EU, Directive 2014/65/EU or equivalent legislation ('recapitalisation');

Amendment

(b) the **resolution** entity **and** its subsidiaries that are institutions, but not resolution entities are recapitalised to a level necessary to enable them to continue to comply with the conditions for authorisation and to carry out the activities for which they are authorised under Directive 2013/36/EU, Directive 2014/65/EU or equivalent legislation ('recapitalisation');

Or. en

Justification

The amendment provides for an important clarification. For the resolution strategy to be operational, the MREL requirement needs to be sufficient to allow a recapitalisation of the resolution entity itself and of any institutions in need of recapitalisation that are part of the same resolution group.

Amendment 257
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

(b) the entity or its subsidiaries that are institutions, but not resolution entities are recapitalised to a level necessary to enable them to continue to comply with the conditions for authorisation and to carry out the activities for which they are authorised under Directive 2013/36/EU, Directive 2014/65/EU or equivalent legislation ('recapitalisation');

Amendment

(b) the entity or its **material** subsidiaries that are institutions, but not resolution entities are recapitalised to a level necessary to enable them to continue to comply with the conditions for authorisation and to carry out the activities for which they are authorised under Directive 2013/36/EU, Directive 2014/65/EU or equivalent legislation ('recapitalisation');

Or. en

Amendment 258
Mady Delvaux, Hugues Bayet

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 2 – subparagraph 2

Text proposed by the Commission

Where the resolution plan provides that the entity shall be wound up under normal insolvency proceedings, the requirement referred to in Article 45(1) for that entity **shall** not exceed an amount sufficient to absorb losses in accordance with point (a) of the first subparagraph.

Amendment

Where the resolution plan provides that the entity shall be wound up under normal insolvency proceedings **or under other equivalent national procedures, the resolution authority shall assess whether it is justified to limit** the requirement referred to in Article 45(1) for that entity, **so that it does** not exceed an amount sufficient to absorb losses in accordance with point (a) of the first subparagraph.

The assessment by the resolution authority shall, in particular, evaluate the limit referred to in the previous subparagraph as regards any possible impact on financial stability and any risk of contagion, including through reputational risk, to the financial system.

Or. en

Justification

The amendment introduces a safeguard that is important to preserve financial stability. A resolution plan is a presumptive path. When it comes to an actual resolution case, different resolution strategies are possible depending on the broader circumstances at that point in time. It is therefore necessary to not automatically limit the MREL requirement of an entity that according to the resolution plan might be liquidated. Such entities should have a sufficiently high MREL to allow for deviations from the resolution plan where necessary.

Amendment 259
Ernest Urtasun, Sven Giegold, Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 2 – subparagraph 2

Text proposed by the Commission

Where the *resolution plan provides that the entity shall be wound up* under normal insolvency proceedings, *the requirement referred to in Article 45(1) for that entity shall not exceed an amount sufficient to absorb losses in accordance with point (a) of the first subparagraph.*

Amendment

Where the *resolvability assessment concludes that liquidation of the institution* under normal insolvency proceedings *is feasible and credible, the recapitalisation amount shall be zero, unless the resolution authority determines that a positive amount is necessary on the grounds that liquidation would not achieve the resolution objectives to the same extent as an alternative resolution strategy.*

Or. en

Amendment 260

Esther de Lange

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 2 – subparagraph 2

Text proposed by the Commission

Where the resolution plan provides that the entity *shall* be wound up under normal insolvency proceedings, the requirement referred to in Article 45(1) for that entity shall *not* exceed an amount sufficient to absorb losses in accordance with point (a) of the first subparagraph.

Amendment

Where the resolution plan provides that the entity *is to* be wound up under normal insolvency proceedings, the requirement referred to in Article 45(1) for that entity shall *only* exceed an amount sufficient to absorb losses in accordance with point (a) of the first subparagraph *to cover additional costs due to the process of winding up the institution.*

Or. en

Amendment 261

Pedro Silva Pereira, Pervenche Berès, Jonás Fernández, Luigi Morgano, Andrea

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

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

Text proposed by the Commission

Amendment

For each resolution entity the requirement referred to in Article 45(1) shall not exceed the level of the requirement specified in Article 92a(1) of Regulation (EU) No 575/2013.

Or. en

Justification

MREL requirements should be kept at the level of the TLAC standard.

Amendment 262

Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

Without prejudice to the last subparagraph, for resolution entities, the amount referred to in paragraph 2 shall not exceed the greater of the following:

The resolution authority shall set the recapitalisation amounts referred to in the previous paragraphs in accordance with the resolution actions foreseen in the resolution plan and may adjust those recapitalisation amounts to adequately reflect risks that affect resolvability arising from the resolution group's business model, funding profile and overall risk profile.

Or. en

Amendment 263

Pedro Silva Pereira, Jonás Fernández, Luigi Morgano, Andrea Cozzolino, Roberto Gualtieri, Doru-Claudian Frunzuliță, Costas Mavrides

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

Without prejudice to the last subparagraph, for resolution entities, the amount referred to in paragraph 2 shall not exceed the greater of the following:

The amount referred to in paragraph 2 shall not exceed the greater of the following:

Or. en

Justification

The adjustments in the last subparagraph, as originally proposed by the Commission, should not lead the amount resulting from this subparagraph to be exceeded. The proposed amendments to the last subparagraph contain more detailed criteria for the better determination of the recapitalization amount in the MREL requirement on the basis of the resolution action foreseen in the resolution plan. These criteria thus further elaborate on the recapitalization amount referred to in subparagraph (a)(ii), instead of providing for further adjustments to said amount that would “exceed” it.

Amendment 264

Thierry Cornillet, Caroline Nagtegaal

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

Without prejudice to the last subparagraph, for resolution entities, the amount referred to in paragraph 2 shall not exceed the greater of the following:

For resolution entities, the amount referred to in paragraph 2 shall not exceed the greater of the following:

Or. en

Justification

The MREL requirement shall not exceed a certain level as it might have otherwise negative spill-overs for the real economy (ability of banks to issue and of the markets to absorb large amount of MREL, inter alia). These words introduce confusion as they suggest that the adjustment by the resolution authority provided in the last subparagraph could overrule the cap.

Amendment 265

Anne Sander, Alain Cadec, Alain Lamassoure

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

Without prejudice to the last subparagraph, for resolution entities, the amount referred to in paragraph 2 shall not exceed the greater of the following:

Amendment

For resolution entities, the amount referred to in paragraph 2 shall not exceed the greater of the following:

Or. en

Amendment 266

Ernest Urtasun, Sven Giegold, Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

Without prejudice to the last subparagraph, for resolution entities, the amount referred to in paragraph 2 shall **not exceed** the greater of the following:

Amendment

Without prejudice to the last subparagraph, for resolution entities, the amount referred to in paragraph 2 shall **at least amount to** the greater of the following:

Or. en

Amendment 267
Syed Kamall

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

Without prejudice to the last subparagraph, for resolution entities, the amount referred to in paragraph 2 shall **not exceed** the greater of the following:

Amendment

Without prejudice to the last subparagraph, for resolution entities, the amount referred to in paragraph 2 shall **be as a minimum** the greater of the following:

Or. en

Justification

A minimum level is required, rather than a cap. A cap is not consistent with the internationally agreed TLAC standard

Amendment 268
Burkhard Balz

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

Without prejudice to the last subparagraph, for resolution entities, the amount referred to in paragraph 2 shall **not exceed** the greater of the following:

Amendment

Without prejudice to the last subparagraph, for resolution entities, the amount referred to in paragraph 2 shall **at least equal** the greater of the following:

Or. en

Amendment 269
Wolf Klinz

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU
Article 45c – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

Without prejudice to the last subparagraph, for resolution entities, the amount referred to in paragraph 2 shall **not exceed** the greater of the following:

Without prejudice to the last subparagraph, for resolution entities, the amount referred to in paragraph 2 shall **be equal to** the greater of the following:

Or. en

Amendment 270
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU
Article 45c – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

Without prejudice to the last subparagraph, for resolution entities, the amount referred to in paragraph 2 shall **not exceed** the greater of the following:

Without prejudice to the last subparagraph, for resolution entities, the amount referred to in paragraph 2 shall **be** the greater of the following:

Or. en

Amendment 271
Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU
Article 45c – paragraph 3 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) the sum of:

deleted

(i) the amount of losses to be absorbed in resolution that corresponds to the requirements referred to in Article 92(1)(a),(b) and (c) of Regulation (EU) No 575/2013 and Article 104a of Directive

2013/36/EU of the resolution entity at sub-consolidated resolution group level,

(ii) a recapitalisation amount that allows the resolution group resulting from resolution to restore its total capital ratio referred in Article 92(1)(c) of Regulation (EU) No 575/2013 and its requirement referred to in Article 104a of Directive 2013/36/EU at resolution group sub-consolidated level;

Or. en

Amendment 272

Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 1 – point a – point i

Text proposed by the Commission

Amendment

(i) the amount of losses to be absorbed in resolution that corresponds to the requirements referred to in Article 92(1)(a),(b) and (c) of Regulation (EU) No 575/2013 and Article 104a of Directive 2013/36/EU of the resolution entity at sub-consolidated resolution group level, **deleted**

Or. en

Amendment 273

Ernest Urtasun, Sven Giegold, Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 1 – point a – point i

Text proposed by the Commission

Amendment

(i) the amount of losses to be absorbed **(i) the amount of losses to be absorbed**

in resolution that corresponds to the requirements referred to in Article 92(1)(a),(b) and (c) of Regulation (EU) No 575/2013 and Article 104a of Directive 2013/36/EU of the resolution entity at sub-consolidated resolution group level,

in resolution that corresponds to the requirements referred to in Article 92(1)(a),(b) and (c) of Regulation (EU) No 575/2013 and Article 104a **and 104b** of Directive 2013/36/EU of the resolution entity at sub-consolidated resolution group level, **as well as the combined buffer requirements as defined in Article 128(1)(6) of Directive 2013/36/EU, or any higher amount necessary to comply with the Basel I floor requirement.**

Or. en

Amendment 274

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 1 – point a – point i

Text proposed by the Commission

(i) the amount of losses to be absorbed in resolution that corresponds to the requirements referred to in Article **92(1)(a),(b) and** (c) of Regulation (EU) No 575/2013 and Article 104a of Directive 2013/36/EU of the resolution entity at **sub-consolidated** resolution group level,

Amendment

(i) the amount of losses to be absorbed in resolution that corresponds to the requirements referred to in Article **92(1)** (c) of Regulation (EU) No 575/2013 and Article 104a of Directive 2013/36/EU of the resolution entity at **consolidated** resolution group level,

Or. en

Amendment 275

Esther de Lange

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 1 – point a – point i

Text proposed by the Commission

Amendment

(i) the amount of losses to be absorbed in resolution that corresponds to the requirements referred to in Article **92(1)(a),(b) and (c)** of Regulation (EU) No 575/2013 and Article 104a of Directive 2013/36/EU of the resolution entity at **sub-consolidated** resolution group level,

(i) the amount of losses to be absorbed in resolution that corresponds to the requirements referred to in Article **92(1)(c)** of Regulation (EU) No 575/2013 and Article 104a of Directive 2013/36/EU of the resolution entity at **consolidated** resolution group level,

Or. en

Amendment 276

Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 1 – point a – point ii

Text proposed by the Commission

Amendment

(ii) **a recapitalisation amount that allows the resolution group resulting from resolution to restore its total capital ratio referred in Article 92(1)(c) of Regulation (EU) No 575/2013 and its requirement referred to in Article 104a of Directive 2013/36/EU at resolution group sub-consolidated level;**

deleted

Or. en

Amendment 277

Esther de Lange

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 1 – point a – point ii

Text proposed by the Commission

Amendment

(ii) a recapitalisation amount that

(ii) a recapitalisation amount that

allows the resolution group resulting from resolution to restore its **total capital ratio** referred in Article 92(1)(c) of Regulation (EU) No 575/2013 and its **requirement** referred to in Article 104a of Directive 2013/36/EU at resolution group **sub-consolidated** level;

allows the resolution group resulting from resolution to restore its **requirements** referred **to** in Article 92(1)(c) of Regulation (EU) No 575/2013 and its **requirements** referred to in Article 104a **and Article 128(6)** of Directive 2013/36/EU at resolution group **consolidated** level **and any additional amount that the resolution authority considers necessary to maintain sufficient market confidence after implementation of the resolution action**;

Or. en

Amendment 278

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 1 – point a – point ii

Text proposed by the Commission

(ii) a recapitalisation amount that allows the resolution group resulting from resolution to restore its total capital ratio referred in Article 92(1)(c) of Regulation (EU) No 575/2013 and its requirement referred to in Article 104a of Directive 2013/36/EU at resolution group sub-consolidated level;

Amendment

(ii) a recapitalisation amount that allows the resolution group resulting from resolution to restore its total capital ratio referred in Article 92(1)(c) of Regulation (EU) No 575/2013 and its requirement referred to in Article 104a **and 104b** of Directive 2013/36/EU at resolution group sub-consolidated level **in addition to a safety margin determined by the resolution authority as provided for in the last subparagraph of this paragraph**;

Or. en

Amendment 279

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

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 1 – point a – point ii

Text proposed by the Commission

(ii) a recapitalisation amount that allows the resolution group resulting from resolution to restore its total capital ratio referred in Article 92(1)(c) of Regulation (EU) No 575/2013 and its requirement referred to in Article 104a of Directive 2013/36/EU at resolution group **sub-consolidated** level;

Amendment

(ii) a recapitalisation amount that allows the resolution group resulting from resolution to restore **compliance with** its total capital ratio **requirement** referred in Article 92(1)(c) of Regulation (EU) No 575/2013 and its requirement referred to in Article 104a of Directive 2013/36/EU at **consolidated** resolution group level **after the implementation of the preferred resolution action**;

Or. en

Amendment 280
Marco Valli

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59

Article 45c – paragraph 3 – subparagraph 1 – point a – point ii

Text proposed by the Commission

(ii) a recapitalisation amount that allows the resolution group resulting from resolution to restore its total capital ratio referred in Article 92(1)(c) of Regulation (EU) No 575/2013 **and its requirement referred to in Article 104a of Directive 2013/36/EU at resolution group sub-consolidated level**;

Amendment

(ii) a recapitalisation amount that allows the resolution group resulting from resolution to restore its total capital ratio referred in Article 92(1)(c) of Regulation (EU) No 575/2013;

Or. en

Amendment 281
Thierry Cornillet, Caroline Nagtegaal

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 1 – point a – point ii

Text proposed by the Commission

(ii) a recapitalisation amount that allows the resolution group resulting from resolution to restore its total capital ratio referred in Article 92(1)(c) of Regulation (EU) No 575/2013 **and its requirement referred to in Article 104a of Directive 2013/36/EU** at resolution group sub-consolidated level;

Amendment

(ii) a recapitalisation amount that allows the resolution group resulting from resolution to restore its total capital ratio referred in Article 92(1)(c) of Regulation (EU) No 575/2013 at resolution group sub-consolidated level;

Or. en

Justification

Additional own funds requirement (pillar 2, new article 104a in CRD) shall not be counted twice for setting MREL by default. The aim is to make sure that banks are recapitalised up to the necessary level to keep their licence.

Amendment 282

Anne Sander, Alain Cadec, Alain Lamassoure

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 1 – point a – point ii

Text proposed by the Commission

(ii) a recapitalisation amount that allows the resolution group resulting from resolution to restore its total capital ratio referred in Article 92(1)(c) of Regulation (EU) No 575/2013 **and its requirement referred to in Article 104a of Directive 2013/36/EU** at resolution group sub-consolidated level;

Amendment

(ii) a recapitalisation amount that allows the resolution group resulting from resolution to restore its total capital ratio referred in Article 92(1)(c) of Regulation (EU) No 575/2013 at resolution group sub-consolidated level;

Or. en

Amendment 283

Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) *the sum of:* *deleted*

(i) *the amount of losses to be absorbed in resolution that corresponds to the resolution entity's leverage ratio requirement referred to in the Regulation (EU) No 575/2013 at resolution group sub-consolidated level; and*

(ii) *a recapitalisation amount that allows the resolution group resulting from resolution to restore the leverage ratio referred to in Article 92(1)(d) of Regulation (EU) No 575/2013 at resolution group sub-consolidated level.*

Or. en

Amendment 284

Esther de Lange

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 1 – point b – point i

Text proposed by the Commission

Amendment

(i) the amount of losses to be absorbed in resolution that corresponds to the resolution entity's leverage ratio requirement referred to in *the* Regulation (EU) No 575/2013 at resolution group *sub-consolidated* level; and

(i) the amount of losses to be absorbed in resolution that corresponds to the resolution entity's leverage ratio requirement referred to in *Article 92(1)(d) of* Regulation (EU) No 575/2013 at resolution group *consolidated* level; and

Or. en

Amendment 285

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 1 – point b – point i

Text proposed by the Commission

(i) the amount of losses to be absorbed in resolution that corresponds to the resolution entity's leverage ratio requirement referred to in *the* Regulation (EU) No 575/2013 at resolution group *sub-consolidated* level; and

Amendment

(i) the amount of losses to be absorbed in resolution that corresponds to the resolution entity's leverage ratio requirement referred to in *Article 92(1)(d) of* Regulation(EU) No 575/2013 at *consolidated* resolution group level; and

Or. en

Amendment 286

Esther de Lange

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 1 – point b – point ii

Text proposed by the Commission

(ii) a recapitalisation amount that allows the resolution group resulting from resolution to restore the leverage ratio referred to in Article 92(1)(d) of Regulation (EU) No 575/2013 at resolution group *sub-consolidated* level.

Amendment

(ii) a recapitalisation amount that allows the resolution group resulting from resolution to restore the leverage ratio referred to in Article 92(1)(d) of Regulation (EU) No 575/2013 *and its requirement in Article 128(6) of Directive 2013/36/EU* at resolution group *consolidated* level *and any additional amount that the resolution authority considers necessary to maintain sufficient market confidence after implementation of the resolution action.*

Or. en

Amendment 287

Syed Kamall

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 1 – point b – point ii

Text proposed by the Commission

(ii) a recapitalisation amount that allows the resolution group resulting from resolution to restore the leverage ratio referred to in Article 92(1)(d) of Regulation (EU) No 575/2013 **at** resolution group sub-consolidated level.

Amendment

(ii) a recapitalisation amount that allows the resolution group resulting from resolution to restore the leverage ratio referred to in Article 92(1)(d) of Regulation (EU) No 575/2013 **and any additional amount that the resolution authority considers necessary to sustain market confidence at the** resolution group sub-consolidated level.

Or. en

Amendment 288

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 1 – point b – point ii

Text proposed by the Commission

(ii) a recapitalisation amount that allows the resolution group resulting from resolution to restore the leverage ratio referred to in Article 92(1)(d) of Regulation (EU) No 575/2013 at resolution group **sub-consolidated** level.

Amendment

(ii) a recapitalisation amount that allows the resolution group resulting from resolution to restore **compliance with** the leverage ratio **requirement** referred to in Article 92(1)(d) of Regulation (EU) No 575/2013 at **consolidated** resolution group level **after the implementation of the preferred resolution action**.

Or. en

Amendment 289
Gabriel Mato, Danuta Maria Hübner

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

1a. For the purposes of points (i) and (ii) of point (a) of subparagraph (1), each resolution entity shall determine the total risk exposure amount of its resolution group in accordance with Title II of Part Three of the Regulation (EU) No 575/2013. An institution which is subject to Article 92a of Regulation (EU) No 575/2013 shall calculate the total risk exposure amount of its resolution group exclusive of any exposure which, where applicable, must be deducted according to Article 72e of Regulation (EU) No 575/2013.

Or. en

Justification

The applicable total RWA of the resolution group must exclude the exposures to other resolution groups in the same banking group that have to be deducted. Otherwise, these exposures would be penalised twice (by deducting from the TLAC resources and by including them in the RWA). This is acknowledged by the Single Resolution Board in the recent publication of its MREL policies.

Amendment 290
Syed Kamall

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

For the purposes of points (a)(ii) and

(b)(ii) of the first subparagraph:

(i) the recapitalisation amount shall also include any additional amount that the resolution authority considers necessary to maintain sufficient market confidence after resolution;

(ii) the default additional amount shall be equivalent to the combined buffer requirement, as specified in point (6) of Article 128 of Directive 2013/36/EU, which would apply to the institution after the application of resolution tools;

(iii) the additional amount required by the resolution authority may be lower than the default amount, if the resolution authority determines that a lower amount would be sufficient to sustain market confidence and ensure both the continued provision of critical economic functions by the institution and the access to funding without recourse to extraordinary financial support other than contributions from resolution financing arrangements, consistently with Article 101 (2) and Article 44(5) and (8);

(iv) The assessment of the amount required to support market confidence shall take into account whether the capital position of the institution after the resolution would be appropriate in comparison with the current capital position of peer institutions.

Or. en

Justification

Resolution authorities require maximum flexibility to be able to tailor recapitalisation amounts accordingly for market confidence.

**Amendment 291
Olle Ludvigsson**

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45b – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Where needed, the level of the requirement that is to be covered by instruments that meet the conditions set out in Article 72b of Regulation (EU) No 575/2013 may exceed the level that arises or would arise from the application of Article 92a(1) of that Regulation.

Or. en

Amendment 292
Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

For the purposes of point (a) of Article 45(2), the requirement referred to in Article 45(1) shall be expressed in percentage terms as the amount calculated in accordance with point (a) of this paragraph divided by the total risk exposure amount.

deleted

Or. en

Amendment 293
Syed Kamall

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

For the purposes of point (a) of Article 45(2), the requirement referred to in Article 45(1) shall be expressed in percentage terms as the amount calculated in accordance with point (a) of this paragraph divided by the total risk exposure amount. **deleted**

Or. en

Justification

Specifying this level of detail is unnecessary and would reduce the required level of flexibility;

Amendment 294

Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 3

Text proposed by the Commission

Amendment

For the purposes of point (b) of Article 45(2), the requirement referred to in Article 45(1) shall be expressed in percentage terms as the amount calculated in accordance with point (b) of this paragraph divided by the leverage ratio exposure measure. **deleted**

Or. en

Amendment 295

Syed Kamall

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 3

Text proposed by the Commission

Amendment

For the purposes of point (b) of Article 45(2), the requirement referred to in Article 45(1) shall be expressed in percentage terms as the amount calculated in accordance with point (b) of this paragraph divided by the leverage ratio exposure measure.

deleted

Or. en

Amendment 296

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

When determining the recapitalisation amounts referred to in the previous subparagraphs, the resolution authority shall:

(a) use the values for the relevant total risk exposure amount or leverage ratio exposure amount as adjusted for any changes resulting from resolution actions foreseen in the resolution plan;

(b) after consulting the competent authority, adjust downwards the requirement referred to in Article 104a of Directive 2013/36/EU currently applicable to the resolution entity, to determine the requirement that will be applicable to the resolution entity after the implementation of the resolution actions foreseen in the resolution plan.

Or. en

Justification

The recapitalisation amount shall be determined having in mind the size of the bank's balance sheet post resolution group. The recapitalisation amount has to be calculated taking into account how the group and the institution will be after resolution, as its purpose is to allow to recapitalize the bank that will result from resolution. Therefore, the effects of the planned resolution actions in the resolution entity have to be considered, as they will inevitably lead to the depletion of the balance sheet, the reduction of the risk of the bank resulting from resolution and the reduction of the Pillar 2 capital requirement applicable to the resolution entity, so that the MREL is sensitive to the resolution strategy. Furthermore, the competent authority should be required to help the resolution authority to anticipate the pillar 2 requirement that it would require to the bank after resolution.

Amendment 297

Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 –subparagraph 4

Text proposed by the Commission

Amendment

The resolution authority shall set the recapitalisation amounts referred to in the previous subparagraphs in accordance with the resolution actions foreseen in the resolution plan and may adjust those recapitalisation amounts to adequately reflect risks that affect resolvability arising from the resolution group's business model, funding profile and overall risk profile.

deleted

Or. en

Amendment 298

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 4

Text proposed by the Commission

Amendment

The resolution authority shall set the recapitalisation amounts referred to in the previous subparagraphs in accordance with the resolution actions foreseen in the resolution plan and may adjust those recapitalisation amounts to adequately reflect risks that affect resolvability arising from the resolution group's business model, funding profile and overall risk profile.

deleted

Or. en

Amendment 299
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 3 – subparagraph 4

Text proposed by the Commission

Amendment

The resolution authority shall set the recapitalisation amounts referred to in **the** previous subparagraphs in accordance with the resolution actions foreseen in the resolution plan and may adjust those recapitalisation amounts to adequately reflect risks that affect resolvability arising from the resolution group's business model, funding profile and overall risk profile.

When setting the recapitalisation amounts referred to in ***this paragraph***, the resolution ***authority shall:***

(a) use the most recent reported values for the relevant total risk exposure amount or leverage ratio denominator, as applicable, unless all the following factors apply:

(i) the resolution plan identifies, explains, and quantifies any change in regulatory capital needs immediately as a result of resolution action;

(ii) the change referred to in point (i) is considered in the resolvability assessment to be both feasible and credible without adversely affecting the provision of critical functions by the institution, and without recourse to extraordinary financial support other than contributions from resolution financing arrangements, consistently with Article 101(2) and the principles governing their use set out in Article 44(5) and (8).

Or. en

Amendment 300

Thierry Cornillet, Caroline Nagtegaal

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 4

Text proposed by the Commission

The resolution authority shall set the recapitalisation amounts referred to in the previous subparagraphs in accordance with the resolution actions foreseen in the resolution plan and may adjust those recapitalisation amounts to adequately reflect risks that affect resolvability arising from the resolution group's business model, funding profile and overall risk profile.

Amendment

The resolution authority shall set the recapitalisation amounts referred to in the previous subparagraphs in accordance with the resolution actions foreseen in the resolution plan ***in particular reflecting the decrease of the total risk exposure amount and of the leverage ratio exposure measure resulting from the resolution actions*** and may adjust those recapitalisation amounts to adequately reflect risks that affect resolvability arising from the resolution group's business model, funding profile and overall risk profile.

Or. en

Justification

After resolution, it is most likely that there will be assets reduction as well as different risk profile. This new state of the entity should be used a basis for the recapitalisation amount.

Amendment 301

Wolf Klinz

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 4

Text proposed by the Commission

The resolution authority shall **set the recapitalisation amounts referred to in the previous subparagraphs in accordance with the resolution actions foreseen in the resolution plan and may adjust those recapitalisation amounts to adequately reflect risks that affect resolvability arising from the resolution group's business model, funding profile and overall risk profile.**

Amendment

The recapitalisation amount shall include any additional amount the resolution authority **considers necessary in order to ensure post-resolution market confidence. This additional amount shall be equal to the combined buffer requirement, as laid down in Chapter 4, Section 1 of Directive 2013/36/EU.** The resolution authority may impose an amount above this minimum in order to ensure that the post-resolution entity is able to obtain liquidity on markets without any emergency liquidity assistance.

Or. en

Amendment 302

Ernest Urtasun, Sven Giegold, Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 4

Text proposed by the Commission

The resolution authority shall set the recapitalisation amounts referred to in the previous subparagraphs in accordance with the resolution actions foreseen in the resolution plan and **may** adjust those recapitalisation amounts **to adequately reflect risks that affect resolvability arising from the resolution group's**

Amendment

The resolution authority shall set the recapitalisation amounts referred to in the previous subparagraphs in accordance with the resolution actions foreseen in the resolution plan and **shall** adjust **upwards** those recapitalisation amounts **in order to ensure that the resolution group resulting from resolution has sufficient resources**

business *model, funding profile and overall risk profile*.

in order to cover any additional or costs that may arise from implementing either resolution actions or the business reorganisation plan (“safety margin ”).

Or. en

Amendment 303
Burkhard Balz

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45 c – paragraph 3 – subparagraph 4

Text proposed by the Commission

The resolution authority shall set the recapitalisation amounts referred to in the previous subparagraphs in accordance with the resolution actions foreseen in the resolution plan and may adjust *those* recapitalisation *amounts to adequately reflect risks that affect resolvability arising from the resolution group’s business model, funding profile and overall risk profile*.

Amendment

The resolution authority shall set the recapitalisation amounts referred to in the previous subparagraphs in accordance with the resolution actions foreseen in the resolution plan and may adjust *upwards the recapitalisation amount in order to cover any additional unexpected or unforeseen losses or costs that may arise from implementing either resolution actions or the business reorganisation plan*.

Or. en

Amendment 304
Anne Sander

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 3 – subparagraph 4

Text proposed by the Commission

The resolution authority shall set the recapitalisation amounts referred to in the previous subparagraphs in accordance with the resolution actions foreseen in the

Amendment

The resolution authority shall set the recapitalisation amounts referred to in the previous subparagraphs in accordance with the resolution actions foreseen in the

resolution plan *and may adjust those recapitalisation amounts to adequately reflect risks that affect resolvability arising* from the resolution *group's business model, funding profile and overall risk profile.*

resolution plan *in particular reflecting the decrease of the total risk exposure amount and of the leverage ratio exposure measure resulting* from the resolution *actions.*

Or. en

Justification

It is important to underline that the recapitalisation amount will have to take into account the balance sheet depletion and therefore will have to be less important than what was needed before the resolution.

Amendment 305

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 4 a (new)

Text proposed by the Commission

Amendment

The resolution authority shall adjust the amount of losses to be absorbed referred to in the previous subparagraphs taking into account information requested from the competent authority relating to the institution's business model, funding model, and risk profile, and in order to reduce or remove an impediment to resolvability or absorb losses on holdings of MREL instruments issued by other group entities as well as whenever the combined buffer requirement is assessed not to be relevant to the need to ensure losses can be absorbed in resolution.

Or. en

Amendment 306

Esther de Lange

Proposal for a directive

Article 1 – paragraph 23 (new)

Directive 2014/59/EU

Article 45c – paragraph 3 – subparagraph 4 a (new)

Text proposed by the Commission

Amendment

The resolution authority may determine, in consultation with the competent authority and taking into account information received from the competent authority relating to the institution's business model, funding model, and risk profile pursuant to Article 4, that, notwithstanding the provisions of previous paragraph, it would be feasible and credible for all or part of any additional own funds requirement or buffer requirements currently applicable to the entity not to apply after implementation of the resolution strategy. In this case that part of the requirement may be disregarded for the purposes of determining the recapitalisation amount.

Or. en

Amendment 307

Sven Giegold, Philippe Lamberts

on behalf of the Verts/ALE Group

Ernest Urtasun

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. When estimating the institution's regulatory capital needs after implementation of the preferred resolution strategy, the resolution authority shall use the most recent

reported values for the relevant total risk exposure amount or leverage ratio denominator, as applicable.

Or. en

Amendment 308

Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 4

Text proposed by the Commission

Amendment

4. Without prejudice to the last subparagraph, for entities that are not themselves resolution entities, the amount referred to in paragraph 2 shall not exceed the greater of any of the following:

deleted

(a) the sum of:

(i) the amount of losses to be absorbed in resolution that corresponds to the requirements referred to in Article 92(1)(a),(b) and (c) of Regulation (EU) No 575/2013 and Article 104a of Directive 2013/36/EU of the entity, and

(ii) a recapitalisation amount that allows the entity to restore its total capital ratio referred in Article 92(1)(c) of Regulation (EU) No 575/2013 and its requirement referred to in Article 104a of Directive 2013/36/EU;

(b) the sum of:

(i) the amount of losses to be absorbed in resolution that corresponds to the entity's leverage ratio requirement referred to in the Article 92(1)(d) of Regulation (EU) No 575/2013, and

(ii) a recapitalisation amount that allows the entity to restore its leverage ratio referred to in the Article 92(1)(d) of Regulation (EU) No 575/2013 ;

For the purposes of point (a) of Article 45(2)(a), the requirement referred to in Article 45(1) shall be expressed in percentage terms as the amount calculated in accordance with point (a) divided by the total risk exposure amount.

For the purposes of point (b) of Article 45(2)(b), the requirement referred to in Article 45(1) shall be expressed in percentage terms as the amount calculated in accordance with point (b) divided by the leverage ratio exposure measure.

The resolution authority shall set the recapitalisation amounts referred to the previous subparagraphs in accordance with the resolution actions foreseen in the resolution plan and may adjust those recapitalisation amounts to adequately reflect risks that affect the recapitalisation needs arising from the entity's business model, funding profile and overall risk profile.

Or. en

Amendment 309
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 4 – subparagraph 1 – introductory part

Text proposed by the Commission

4. Without prejudice to the last subparagraph, for **entities** that are not themselves resolution entities, the amount referred to in paragraph 2 shall not exceed the greater of any of the following:

Amendment

4. Without prejudice to the last subparagraph, for **material subsidiaries** that are not themselves resolution entities, the amount referred to in paragraph 2 shall not exceed the greater of any of the following:

Or. en

Amendment 310

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 4 – subparagraph 1 – introductory part

Text proposed by the Commission

4. ***Without prejudice to the last subparagraph***, for entities that are not themselves resolution entities, the amount referred to in paragraph 2 shall not exceed the greater of any of the following:

Amendment

4. For entities that are not themselves resolution entities, the amount referred to in paragraph 2 shall not exceed the greater of any of the following:

Or. en

Justification

The adjustments in the last subparagraph, as originally proposed by the Commission, should not lead the amount resulting from this subparagraph to be exceeded. The proposed amendments to the last subparagraph contain more detailed criteria for the better determination of the recapitalization amount in the MREL requirement on the basis of the resolution action foreseen in the resolution plan. These criteria thus further elaborate on the recapitalization amount referred to in subparagraph (a)(ii), instead of providing for further adjustments to said amount that would “exceed” it.

Amendment 311

Anne Sander, Alain Cadec, Alain Lamassoure

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 4 – subparagraph 1 – introductory part

Text proposed by the Commission

4. ***Without prejudice to the last subparagraph***, for entities that are not themselves resolution entities, the amount referred to in paragraph 2 shall not exceed the greater of any of the following:

Amendment

4. For entities that are not themselves resolution entities, the amount referred to in paragraph 2 shall not exceed the greater of any of the following:

Or. en

Amendment 312

Syed Kamall

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 4 – subparagraph 1 – introductory part

Text proposed by the Commission

4. Without prejudice to the last subparagraph, for entities that are not themselves resolution entities, the amount referred to in paragraph 2 shall **not exceed** the greater of any of the following:

Amendment

4. Without prejudice to the last subparagraph, for entities that are not themselves resolution entities, the amount referred to in paragraph 2 shall **be at least equal to** the greater of any of the following **multiplied by the relevant scalar**:

Or. en

Justification

A minimum level, rather than a cap, is appropriate to ensure financial stability

Amendment 313

Thierry Cornillet, Caroline Nagtegaal

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 4 – subparagraph 1 – introductory part

Text proposed by the Commission

4. **Without prejudice to the last subparagraph**, for entities that are not themselves resolution entities, the amount referred to in paragraph 2 shall not exceed the greater of any of the following:

Amendment

4. For entities that are not themselves resolution entities, the amount referred to in paragraph 2 shall not exceed the greater of any of the following:

Or. en

Justification

The MREL requirement shall not exceed a certain level as it might have otherwise negative

spill-overs for the real economy (ability of banks to issue and of the markets to absorb large amount of MREL, inter alia). These words introduce confusion as they suggest that the adjustment by the resolution authority provided in the last subparagraph could overrule the cap.

Amendment 314

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 4 – subparagraph 1 – introductory part

Text proposed by the Commission

4. Without prejudice to the last **subparagraph**, for entities that are not themselves resolution entities, the amount referred to in paragraph 2 shall **not exceed** the greater of any of the following:

Amendment

4. Without prejudice to the last **paragraph**, for entities that are not themselves resolution entities, the amount referred to in paragraph 2 shall **at least amount to** the greater of any of the following:

Or. en

Amendment 315

Esther de Lange

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 4 – subparagraph 1 – introductory part

Text proposed by the Commission

4. Without prejudice to the last subparagraph, for entities that are not themselves resolution entities, the amount referred to in paragraph 2 shall **not exceed** the greater **of any** of the following:

Amendment

4. Without prejudice to the last subparagraph, for entities that are not themselves resolution entities, the amount referred to in paragraph 2 shall **be** the greater of the following:

Or. en

Amendment 316

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 4 – subparagraph 1 – point a – point i

Text proposed by the Commission

(i) the amount of losses to be absorbed in resolution that corresponds to the requirements referred to in Article 92(1)(a),(b) and (c) of Regulation (EU) No 575/2013 and **Article 104a** of Directive 2013/36/EU of the entity, and

Amendment

(i) the amount of losses to be absorbed in resolution that corresponds to the requirements referred to in Article 92(1)(a),(b) and (c) of Regulation (EU) No 575/2013 and **Articles 104a and 104b** of Directive 2013/36/EU of the entity **as well as the combined buffer requirements as defined in Article 128(1)(6) of Directive 2013/36/EU or any higher amount necessary to comply with the Basel I floor,** and

Or. en

Amendment 317

Esther de Lange

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 4 – subparagraph 1 – point a – point i

Text proposed by the Commission

(i) the amount of losses to be absorbed in resolution that corresponds to the requirements referred to in Article **92(1)(a),(b) and (c)** of Regulation (EU) No 575/2013 and Article 104a of Directive 2013/36/EU of the entity, **and**

Amendment

(i) the amount of losses to be absorbed in resolution that corresponds to the requirements referred to in Article **92(1)(c)** of Regulation (EU) No 575/2013 and Article 104a of Directive 2013/36/EU of the **resolution** entity **at consolidated resolution group level,**

Or. en

Amendment 318

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 4 – subparagraph 1 – point a – point i

Text proposed by the Commission

(i) the amount of losses to be absorbed ***in resolution*** that corresponds to the requirements referred to in Article ***92(1)(a),(b) and*** (c) of Regulation (EU) No 575/2013 and Article 104a of Directive 2013/36/EU of the entity, and

Amendment

(i) the amount of losses to be absorbed that corresponds to the requirements referred to in Article ***92(1)*** (c) of Regulation (EU) No 575/2013 and Article 104a of Directive 2013/36/EU of the entity, and

Or. en

Amendment 319

Esther de Lange

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 4 – subparagraph 1 – point a – point ii

Text proposed by the Commission

(ii) a recapitalisation amount that allows the entity to restore ***its total capital ratio*** referred in Article 92(1)(c) of Regulation (EU) No 575/2013 and its ***requirement*** referred to in Article 104a of Directive 2013/36/EU;

Amendment

(ii) a recapitalisation amount that allows the entity to restore ***compliance with its requirement*** referred to in Article 92(1)(c) of Regulation (EU) No 575/2013 and its ***requirements*** referred to in Article 104a of Directive 2013/36/EU ***and in Article 128(6) of that Directive and any additional amount that the resolution authority considers necessary to maintain sufficient market confidence after implementation of the resolution action;***

Or. en

Amendment 320

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 4 – subparagraph 1 – point a – point ii

Text proposed by the Commission

(ii) a recapitalisation amount that allows the entity to restore its total capital ratio referred in Article 92(1)(c) of Regulation (EU) No 575/2013 and its requirement referred to in Article 104a of Directive 2013/36/EU;

Amendment

(ii) a recapitalisation amount that allows the entity to restore **compliance with** its total capital ratio **requirement** referred in Article 92(1)(c) of Regulation (EU) No 575/2013 and its requirement referred to in Article 104a of Directive 2013/36/EU **after the exercise of the power to write down or convert relevant capital instruments and eligible liabilities in accordance with Article 59;**

Or. en

Amendment 321

Ernest Urtasun

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 4 – subparagraph 1 – point a – point ii

Text proposed by the Commission

(ii) a recapitalisation amount that allows the entity to restore its total capital ratio referred in Article 92(1)(c) of Regulation (EU) No 575/2013 and its requirement referred to in Article 104a of Directive 2013/36/EU;

Amendment

(ii) a recapitalisation amount that allows the entity to restore its total capital ratio referred in Article 92(1)(c) of Regulation (EU) No 575/2013 and its requirement referred to in Article 104a **and 104b** of Directive 2013/36/EU **in addition to a safety margin determined by the resolution authority as provided for in the last subparagraph of paragraph 3 of this Article;**

Or. en

Amendment 322

Thierry Cornillet, Caroline Nagtegaal

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 4 – subparagraph 1 – point a – point ii

Text proposed by the Commission

(ii) a recapitalisation amount that allows the entity to restore its total capital ratio referred in Article 92(1)(c) of Regulation (EU) No 575/2013 **and its requirement referred to in Article 104a of Directive 2013/36/EU**;

Amendment

(ii) a recapitalisation amount that allows the entity to restore its total capital ratio referred in Article 92(1)(c) of Regulation (EU) No 575/2013;

Or. en

Justification

Additional own funds requirement (pillar 2, new article 104a in CRD) shall not be counted twice for setting MREL by default. The aim is to make sure that banks are recapitalised up to the necessary level to keep their licence.

Amendment 323

Anne Sander

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 4 – subparagraph 1 – point a – point ii

Text proposed by the Commission

(ii) a recapitalisation amount that allows the entity to restore its total capital ratio referred in Article 92(1)(c) of Regulation (EU) No 575/2013 **and its requirement referred to in Article 104a of Directive 2013/36/EU**;

Amendment

(ii) a recapitalisation amount that allows the entity to restore its total capital ratio referred in Article 92(1)(c) of Regulation (EU) No 575/2013;

Or. en

Amendment 324
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 4 – subparagraph 1 – point a – point ii

Text proposed by the Commission

(ii) a recapitalisation amount that allows the **entity** to restore its total capital ratio referred in Article 92(1)(c) of Regulation (EU) No 575/2013 and its requirement referred to in Article 104a of Directive 2013/36/EU;

Amendment

(ii) a recapitalisation amount that allows the **material subsidiary** to restore its total capital ratio referred in Article 92(1)(c) of Regulation (EU) No 575/2013 and its requirement referred to in Article 104a of Directive 2013/36/EU;

Or. en

Amendment 325

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

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 4 – subparagraph 1 – point b – point i

Text proposed by the Commission

(i) the amount of losses to be absorbed **in resolution** that corresponds to the entity's leverage ratio requirement referred to in the Article 92(1)(d) of Regulation (EU) No 575/2013, and

Amendment

(i) the amount of losses to be absorbed that corresponds to the entity's leverage ratio requirement referred to in the Article 92(1)(d) of Regulation (EU) No 575/2013, and

Or. en

Amendment 326
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU
Article 45c – paragraph 4 – subparagraph 1 – point b – point ii

Text proposed by the Commission

(ii) a recapitalisation amount that allows the entity to restore its leverage ratio referred to in *the* Article 92(1)(d) of Regulation (EU) No 575/2013 ;

Amendment

(ii) a recapitalisation amount that allows the entity to restore its leverage ratio referred to in Article 92(1)(d) of Regulation (EU) No 575/2013 **and its requirement in Article 128(6) of Directive 2013/36/EU and any additional amount that the resolution authority considers necessary to maintain sufficient market confidence after implementation of the resolution action;**

Or. en

Amendment 327

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU
Article 45c – paragraph 4 – subparagraph 1 – point b – point ii

Text proposed by the Commission

(ii) a recapitalisation amount that allows the entity to restore its leverage ratio referred to in the Article 92(1)(d) of Regulation (EU) No 575/2013 ;

Amendment

(ii) a recapitalisation amount that allows the entity to restore **compliance** with its leverage ratio **requirement** referred to in the Article 92(1)(d) of Regulation (EU) No 575/2013 **after the exercise of the power to write down or convert relevant capital instruments and eligible liabilities in accordance with Article 59;**

Or. en

Amendment 328

Syed Kamall

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU
Article 45c – paragraph 4 – subparagraph 1 – point b – point ii

Text proposed by the Commission

(ii) a recapitalisation amount that allows the entity to restore its leverage ratio referred to in the Article 92(1)(d) of Regulation (EU) No 575/2013 ;

Amendment

(ii) a recapitalisation amount that allows the entity to restore its leverage ratio referred to in the Article 92(1)(d) of Regulation (EU) No 575/2013 **and any additional amount that the resolution authority considers necessary to sustain sufficient market confidence;**

Or. en

Amendment 329
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU
Article 45c – paragraph 4 – subparagraph 1 – point b – point ii

Text proposed by the Commission

(ii) a recapitalisation amount that allows the **entity** to restore its leverage ratio referred to in the Article 92(1)(d) of Regulation (EU) No 575/2013 ;

Amendment

(ii) a recapitalisation amount that allows the **material subsidiary** to restore its leverage ratio referred to in the Article 92(1)(d) of Regulation (EU) No 575/2013 ;

Or. en

Amendment 330
Syed Kamall

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

Directive 2014/59/EU
Article 45c – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

For the purposes of point (a) of the first subparagraph, the recapitalisation amount shall also include any additional

amount that the resolution authority considers necessary to maintain sufficient market confidence after resolution.

Or. en

Justification

Ensuring market confidence is essential

Amendment 331
Syed Kamall

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

For the purposes of the first subparagraph, 'relevant scalar' means any figure between 0.75 and 0.90 inclusive, as determined by the resolution authority.

Or. en

Justification

TLAC requires internal MREL is set between 75% and 90%. Resolution authorities should not be prevented from scaling this internal MREL to ensure sufficient resources.

Amendment 332
Syed Kamall

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 4 – subparagraph 2

Text proposed by the Commission

Amendment

For the purposes of point (a) of Article 45(2)(a), the requirement referred to in Article 45(1) shall be expressed in percentage terms as the amount calculated in accordance with point (a) divided by the total risk exposure amount.

deleted

Or. en

Amendment 333
Syed Kamall

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EC
Article 45c – paragraph 4 – subparagraph 3

Text proposed by the Commission

Amendment

For the purposes of point (b) of Article 45(2)(b), the requirement referred to in Article 45(1) shall be expressed in percentage terms as the amount calculated in accordance with point (b) divided by the leverage ratio exposure measure.

deleted

Or. en

Amendment 334
Pedro Silva Pereira, Jonás Fernández, Luigi Morgano, Andrea Cozzolino, Roberto Gualtieri, Doru-Claudian Frunzulică, Costas Mavrides

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 4 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

When determining the recapitalisation amounts referred to in the previous

subparagraphs, the resolution authority shall:

(a) use the values for the relevant total risk exposure amount or leverage ratio exposure amount as adjusted for any changes resulting from actions foreseen in the resolution plan;

(b) after consulting the competent authority, adjust downwards the requirement referred to in Article 104a of Directive 2013/36/EU currently applicable to the relevant entity, to determine the requirement that will be applicable to the entity after the implementation of the actions foreseen in the resolution plan.

Or. en

Justification

The recapitalisation amount shall be determined having in mind the size of the bank's balance sheet post resolution group. The recapitalisation amount has to be calculated taking into account how the group and the institution will be after resolution, as its purpose is to allow to recapitalize the bank that will result from resolution. Therefore, the effects of the planned resolution actions in the resolution entity have to be considered, as they will inevitably lead to the depletion of the balance sheet, the reduction of the risk of the bank resulting from resolution and the reduction of the Pillar 2 capital requirement applicable to the resolution entity, so that the MREL is sensitive to the resolution strategy. Furthermore, the competent authority should be required to help the resolution authority to anticipate the pillar 2 requirement that it would require to the bank after resolution.

Amendment 335

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 4 – subparagraph 4

Text proposed by the Commission

Amendment

The resolution authority shall set the recapitalisation amounts referred to the previous subparagraphs in accordance

deleted

with the resolution actions foreseen in the resolution plan and may adjust those recapitalisation amounts to adequately reflect risks that affect the recapitalisation needs arising from the entity's business model, funding profile and overall risk profile.

Or. en

Amendment 336

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 4 – subparagraph 4

Text proposed by the Commission

The resolution authority shall set the recapitalisation amounts referred to the previous subparagraphs in accordance with the resolution actions foreseen in the resolution plan and *may* adjust those recapitalisation amounts *to adequately reflect risks that affect the recapitalisation needs arising from the entity's business model, funding profile and overall risk profile.*

Amendment

The resolution authority shall adjust the amount of losses to be absorbed referred to in the previous subparagraphs taking into account information requested from the competent authority relating to the institution's business model, funding model, and risk profile, and in order to reduce or remove an impediment to resolvability or absorb losses on holdings of MREL instruments issued by other group entities as well as whenever the combined buffer requirement is assessed not to be relevant to the need to ensure losses can be absorbed in resolution.

The resolution authority shall set the recapitalisation amounts referred to the previous subparagraphs in accordance with the resolution actions foreseen in the resolution plan and *shall* adjust *upwards* those recapitalisation amounts *in order to ensure that the resolution group resulting from resolution has sufficient resources in order to cover any additional costs that may arise from implementing either resolution actions or the business*

reorganisation plan (“safety margin”).

When estimating the institution’s regulatory capital needs after implementation of the preferred resolution strategy, the resolution authority shall use the most recent reported values for the relevant total risk exposure amount or leverage ratio denominator, as applicable.

Or. en

Amendment 337

Esther de Lange

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 4 – subparagraph 4

Text proposed by the Commission

*The resolution authority shall set the recapitalisation amounts referred to **the previous subparagraphs in accordance with** the resolution actions foreseen in the resolution plan **and may adjust those recapitalisation amounts to adequately reflect risks that affect the recapitalisation needs arising from the entity's business model, funding profile and overall risk profile.***

Amendment

*When setting the recapitalisation amounts referred to **in this paragraph**, the resolution authority shall:*

(a) use the most recent reported values for the relevant total risk exposure amount or leverage ratio denominator, as applicable, unless all of the following factors apply:

(i) the resolution plan identifies, explains, and quantifies any change in regulatory capital needs immediately as a result of resolution action;

(ii) the change referred to in point (i) is considered in the resolvability assessment to be both feasible and credible without adversely affecting the

provision of critical functions by the institution, and without recourse to extraordinary financial support other than contributions from resolution financing arrangements, consistently with Article 101(2) and the principles governing their use set out in Article 44(5) and (8).

Or. en

Amendment 338
Thierry Cornillet, Caroline Nagtegaal

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 4 – subparagraph 4

Text proposed by the Commission

The resolution authority shall set the recapitalisation amounts referred to the previous subparagraphs in accordance with the resolution actions foreseen in the resolution plan and may adjust those recapitalisation amounts to adequately reflect risks that affect the recapitalisation needs arising from the entity's business model, funding profile and overall risk profile.

Amendment

The resolution authority shall set the recapitalisation amounts referred to the previous subparagraphs in accordance with the resolution actions foreseen in the resolution plan ***in particular reflecting the decrease of the total risk exposure amount and of the leverage ratio exposure measure resulting from the resolution actions*** and may adjust those recapitalisation amounts to adequately reflect risks that affect the recapitalisation needs arising from the entity's business model, funding profile and overall risk profile.

Or. en

Justification

After resolution, it is most likely that there will be assets reduction as well as different risk profile. This new state of the entity should be used a basis for the recapitalisation amount (balance sheet depletion).

Amendment 339

Barbara Kappel

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 4 – subparagraph 4

Text proposed by the Commission

The resolution authority shall set the recapitalisation amounts referred to the previous subparagraphs in accordance with the resolution actions foreseen in the resolution plan and may adjust those recapitalisation amounts to adequately reflect risks that affect the recapitalisation needs arising from the entity's business model, funding profile and overall risk profile.

Amendment

The resolution authority shall set the recapitalisation amounts referred to the previous subparagraphs in accordance with the resolution actions foreseen in the resolution plan and may adjust those recapitalisation amounts to adequately reflect risks that affect the recapitalisation needs arising from the entity's business model, funding profile and overall risk profile *of the material subsidiary*.

Or. en

Amendment 340

Anne Sander, Alain Cadec, Alain Lamassoure

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 4 – subparagraph 4

Text proposed by the Commission

The resolution authority shall set the recapitalisation amounts referred to the previous subparagraphs in accordance with the resolution actions foreseen in the resolution plan *and may adjust those recapitalisation amounts to adequately reflect risks that affect the recapitalisation needs arising from the entity's business model, funding profile and overall risk profile*.

Amendment

The resolution authority shall set the recapitalisation amounts referred to the previous subparagraphs in accordance with the resolution actions foreseen in the resolution plan *in particular reflecting the decrease of the total risk exposure amount and of the leverage ratio exposure measure resulting from the resolution actions*.

Or. en

Justification

It is important to underline that the recapitalisation amount will have to take into account the balance sheet depletion and therefore will have to be less important than what was needed before the resolution.

Amendment 341 **Esther de Lange**

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 4 – subparagraph 4 a (new)

Text proposed by the Commission

Amendment

The resolution authority may determine, in consultation with the competent authority and taking into account information received from the competent authority relating to the institution's business model, funding model, and risk profile pursuant to Article 4, that, notwithstanding the provisions of previous paragraph, it would be feasible and credible for all or part of any additional own funds requirement or buffer requirements currently applicable to the entity not to apply after implementation of the resolution strategy. In this case that part of the requirement may be disregarded for the purposes of determining the recapitalisation amount.

Or. en

Amendment 342 **Markus Ferber**

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 4 a (new)

4 a. *In addition to the requirements of paragraphs 3 and 4, the resolution authority shall be able to increase the loss absorption and recapitalisation amounts if this is needed to ensure that the costs of resolution would be fully borne by the entity's own funds and liabilities, and to ensure that an entity retains sufficient market confidence after resolution. In determining a market confidence amount, the capital position of peer institutions should be taken into account. An amount at least equal to the combined buffer requirement shall generally be imposed under this paragraph, except if the resolution authority determines this is not required to achieve the resolution objectives. For systemically relevant entities, the requirement referred to in Article 45(1) shall be set to at least 8% of total liabilities and own funds.*

Or. en

Justification

The level of MREL should not be capped in the Level 1 text. This amendment ensures that Art. 45c(3)-(4), i.e. the MREL formula contained in the COM proposal, do not constitute a cap. In order to ensure full private sector loss absorption, which is the goal of the resolution framework enshrined in the BRRD, the resolution authority should have the necessary discretion to require a sufficient amount of bail-in buffers.

Amendment 343
Burkhard Balz

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 4 a (new)

4 a. *In addition to paragraphs 3 and 4*

the requirement referred to in Article 45(1) shall:

(a) include an amount that the resolution authority considers necessary to maintain sufficient market confidence and

(b) amount to at least 8% of total liabilities and own funds in accordance with Article 44(5).

For the purpose of point (a) the resolution authority shall assess whether the capital position of the entity after a resolution is deemed to be appropriate in comparison with the capital position of peer entities. The amount set out in accordance with point (a) shall be as a minimum equal to the combined buffer requirement as laid down in Title VII Chapter 4 Section I of Directive 2013/36/EU.

Or. en

Amendment 344

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 5 – introductory part

Text proposed by the Commission

5. Where the resolution authority expects that certain classes of eligible liabilities might be excluded from bail-in pursuant to Article 44(3) or might be transferred to a recipient in full under a partial transfer, the requirement referred to in Article 45(1) shall ***not exceed an amount sufficient to:***

Amendment

5. Where the resolution authority expects that certain classes of eligible liabilities might be excluded from bail-in pursuant to Article 44(3) or might be transferred to a recipient in full under a partial transfer, the requirement referred to in Article 45(1) shall ***at least:***

Or. en

Amendment 345

Esther de Lange

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 5 – introductory part

Text proposed by the Commission

5. Where the resolution authority expects that certain classes of eligible liabilities might be excluded from bail-in pursuant to Article 44(3) or might be transferred to a recipient in full under a partial transfer, the requirement referred to in Article 45(1) shall **not exceed** an amount sufficient to:

Amendment

5. Where the resolution authority expects that certain classes of eligible liabilities might be excluded from bail-in pursuant to Article 44(3) or might be transferred to a recipient in full under a partial transfer, the requirement referred to in Article 45(1) shall **be** an amount sufficient to:

Or. en

Amendment 346

Ernest Urtasun, Sven Giegold, Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 6

Text proposed by the Commission

6. The resolution authority's decision to impose a minimum requirement of own funds and eligible liabilities under this Article shall contain the reasons for that decision, **including a full assessment of the elements referred to in paragraphs 2 to 5.**

Amendment

6. The resolution authority's decision to impose a minimum requirement of own funds and eligible liabilities under this Article shall contain the reasons for that decision.

Or. en

Amendment 347

Syed Kamall

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 6

Text proposed by the Commission

6. The resolution authority's decision to impose a minimum requirement of own funds and eligible liabilities under this Article shall contain the reasons for that decision, ***including a full assessment of the elements referred to in paragraphs 2 to 5.***

Amendment

6. The resolution authority's decision to impose a minimum requirement of own funds and eligible liabilities under this Article shall contain the reasons for that decision.

Or. en

Justification

The full impact assessment would be burdensome and unnecessary given the reasons for the decision will be provided.

Amendment 348
Stanisław Ożóg

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 7 – subparagraph 2

Text proposed by the Commission

The resolution authority may reduce the requirement referred to in Article 45(1) to take account of the amount which a deposit guarantee scheme is expected to contribute to the financing of the preferred resolution strategy in accordance with Article 109 of Directive 2014/59/EU.

Amendment

deleted

Or. en

Justification

[Applies also to: Article 45c, paragraph 1, point 4 (above)]: In order to ensure the adequate

depositor protection, the potential contribution of the DGS to the financing of resolution should not be used to reduce the MREL requirement. The concept of the MREL is based on the assumption that the risk relating to a potential failure is dispersed across wide range of creditors. Reliance on the DGS contribution to the financing of resolution stays in a clear contradiction to this principle. Possible reductions of the MREL requirement on the basis of a potential DGS contributions to financing of resolution could pose a systemic risk as the reduction of the overall loss absorption capacity in the whole financial sector would very likely exceed the DGS available financial means DGS. Thus we suggest to delete the respective provisions as they weaken the MREL requirement and thus the credibility of resolution regime and impede financial stability.

Amendment 349

Mady Delvaux, Hugues Bayet

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 7 – subparagraph 2

Text proposed by the Commission

Amendment

The resolution authority may reduce the requirement referred to in Article 45(1) to take account of the amount which a deposit guarantee scheme is expected to contribute to the financing of the preferred resolution strategy in accordance with Article 109 of Directive 2014/59/EU.

deleted

Or. en

Justification

In order to provide for adequate depositor protection, the potential contribution of the DGS should not be used to reduce the MREL requirement.

Amendment 350

Esther de Lange

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 7 – subparagraph 2

Text proposed by the Commission

Amendment

The resolution authority may reduce the requirement referred to in Article 45(1) to take account of the amount which a deposit guarantee scheme is expected to contribute to the financing of the preferred resolution strategy in accordance with Article 109 of Directive 2014/59/EU.

deleted

Or. en

Amendment 351

Dariusz Rosati, Danuta Maria Hübner

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 7 – subparagraph 2

Text proposed by the Commission

Amendment

The resolution authority may reduce the requirement referred to in Article 45(1) to take account of the amount which a deposit guarantee scheme is expected to contribute to the financing of the preferred resolution strategy in accordance with Article 109 of Directive 2014/59/EU.

deleted

Or. en

Amendment 352

Stanisław Ożóg

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 7 – subparagraph 3

The size of any such reduction shall be based on a credible assessment of the potential contribution from the deposit guarantee scheme, and shall at least: ***deleted***

(a) be less than a prudent estimate of the potential losses which the deposit guarantee scheme would have had to bear, had the institution been wound up under normal insolvency proceedings, taking into account the priority ranking of the deposit guarantee scheme pursuant to Article 108 of Directive 2014/59/EU;

(b) be less than the limit on deposit guarantee scheme contributions set out in the second subparagraph of Article 109(5) of Directive 2014/59/EU;

(c) take account of the overall risk of exhausting the available financial means of the deposit guarantee scheme due to contributing to multiple bank failures or resolutions; and

(d) be consistent with any other relevant provisions in national law and the duties and responsibilities of the authority responsible for the deposit guarantee scheme.

(e) The resolution authority shall, after consulting the authority responsible for the deposit guarantee scheme, document its approach as regards the assessment of the overall risk of exhausting the available financial means of the deposit guarantee scheme and apply reductions in accordance with subparagraph 1, provided that that risk is not excessive.

Or. en

Justification

In order to ensure the adequate depositor protection, the potential contribution of the DGS to the financing of resolution should not be used to reduce the MREL requirement. The concept

of the MREL is based on the assumption that the risk relating to a potential failure is dispersed across wide range of creditors. Reliance on the DGS contribution to the financing of resolution stays in a clear contradiction to this principle. Possible reductions of the MREL requirement on the basis of a potential DGS contributions to financing of resolution could pose a systemic risk as the reduction of the overall loss absorption capacity in the whole financial sector would very likely exceed the DGS available financial means DGS. Thus we suggest to delete the respective provisions as they weaken the MREL requirement and thus the credibility of resolution regime and impede financial stability.

Amendment 353

Dariusz Rosati, Danuta Maria Hübner

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 7 – subparagraph 3

Text proposed by the Commission

Amendment

The size of any such reduction shall be based on a credible assessment of the potential contribution from the deposit guarantee scheme, and shall at least:

deleted

(a) be less than a prudent estimate of the potential losses which the deposit guarantee scheme would have had to bear, had the institution been wound up under normal insolvency proceedings, taking into account the priority ranking of the deposit guarantee scheme pursuant to Article 108 of Directive 2014/59/EU;

(b) be less than the limit on deposit guarantee scheme contributions set out in the second subparagraph of Article 109(5) of Directive 2014/59/EU;

(c) take account of the overall risk of exhausting the available financial means of the deposit guarantee scheme due to contributing to multiple bank failures or resolutions; and

(d) be consistent with any other relevant provisions in national law and the duties and responsibilities of the authority responsible for the deposit guarantee scheme.

(e) The resolution authority shall, after consulting the authority responsible for the deposit guarantee scheme, document its approach as regards the assessment of the overall risk of exhausting the available financial means of the deposit guarantee scheme and apply reductions in accordance with subparagraph 1, provided that that risk is not excessive.

Or. en

Amendment 354
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 7 – subparagraph 3

Text proposed by the Commission

Amendment

The size of any such reduction shall be based on a credible assessment of the potential contribution from the deposit guarantee scheme, and shall at least:

deleted

(a) be less than a prudent estimate of the potential losses which the deposit guarantee scheme would have had to bear, had the institution been wound up under normal insolvency proceedings, taking into account the priority ranking of the deposit guarantee scheme pursuant to Article 108 of Directive 2014/59/EU;

(b) be less than the limit on deposit guarantee scheme contributions set out in the second subparagraph of Article 109(5) of Directive 2014/59/EU;

(c) take account of the overall risk of exhausting the available financial means of the deposit guarantee scheme due to contributing to multiple bank failures or resolutions; and

(d) be consistent with any other

relevant provisions in national law and the duties and responsibilities of the authority responsible for the deposit guarantee scheme.

(e) The resolution authority shall, after consulting the authority responsible for the deposit guarantee scheme, document its approach as regards the assessment of the overall risk of exhausting the available financial means of the deposit guarantee scheme and apply reductions in accordance with subparagraph 1, provided that that risk is not excessive.

Or. en

Amendment 355

Mady Delvaux, Hugues Bayet

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 7 – subparagraph 3

Text proposed by the Commission

Amendment

The size of any such reduction shall be based on a credible assessment of the potential contribution from the deposit guarantee scheme, and shall at least:

deleted

(a) be less than a prudent estimate of the potential losses which the deposit guarantee scheme would have had to bear, had the institution been wound up under normal insolvency proceedings, taking into account the priority ranking of the deposit guarantee scheme pursuant to Article 108 of Directive 2014/59/EU;

(b) be less than the limit on deposit guarantee scheme contributions set out in the second subparagraph of Article 109(5) of Directive 2014/59/EU;

(c) take account of the overall risk of exhausting the available financial means

of the deposit guarantee scheme due to contributing to multiple bank failures or resolutions; and

(d) be consistent with any other relevant provisions in national law and the duties and responsibilities of the authority responsible for the deposit guarantee scheme.

(e) The resolution authority shall, after consulting the authority responsible for the deposit guarantee scheme, document its approach as regards the assessment of the overall risk of exhausting the available financial means of the deposit guarantee scheme and apply reductions in accordance with subparagraph 1, provided that that risk is not excessive.

Or. en

Justification

In order to provide for adequate depositor protection, the potential contribution of the DGS should not be used to reduce the MREL requirement.

Amendment 356

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 7 – subparagraph 3 – point a

Text proposed by the Commission

(a) be *less than* a prudent estimate of the potential losses which the deposit guarantee scheme would have had to bear, had the institution been wound up under normal insolvency proceedings, taking into account the priority ranking of the deposit guarantee scheme pursuant to Article 108 of Directive 2014/59/EU;

Amendment

(a) be **20 per cent of** a prudent estimate of the potential losses which the deposit guarantee scheme would have had to bear, had the institution been wound up under normal insolvency proceedings, taking into account the priority ranking of the deposit guarantee scheme pursuant to Article 108 of Directive 2014/59/EU;

Amendment 357
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7 a. *For institutions and groups which have been designated as G-SIIs or O-SIIs by the relevant competent authorities, and for any other institution which the competent authority or the resolution authority considers reasonably likely to pose a systemic risk in case of failure, the resolution authority shall ensure that the MREL is sufficient to permit that the requirements set out in Article 44(5)(a) and 44(8)(a) relating to a contribution to loss absorption and recapitalisation by the resolution financing arrangement would be met.*

For that purpose, consideration shall be given in particular to the requirement that in resolution a minimum contribution to loss absorption and recapitalisation of 8% of total liabilities and own funds, or of 20% of the total risk exposure amount if additional conditions under Article 44(8) are met, is made by shareholders and holders of capital instruments and eligible liabilities at the time of resolution.

Or. en

Amendment 358
Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias

Proposal for a directive
Article 1 – paragraph 23

Text proposed by the Commission

Amendment

8. EBA shall draft regulatory technical standards which shall further specify the criteria referred to in paragraph 1 on the basis of which the requirement for own funds and permissible liabilities is to be determined in accordance with this Article.

deleted

EBA shall submit those draft regulatory standards to the Commission by [1 month after the entry into force].

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 1090/2010.

Or. en

Amendment 359
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 8

Text proposed by the Commission

Amendment

8. EBA shall draft regulatory technical standards which shall further specify the criteria referred to in paragraph 1 on the basis of which the requirement for own funds and permissible liabilities is to be determined in accordance with this Article.

deleted

EBA shall submit those draft regulatory standards to the Commission by [1 month after the entry into force].

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 1090/2010.

Or. en

Amendment 360
Syed Kamall

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45c – paragraph 8

Text proposed by the Commission

Amendment

8. EBA shall draft regulatory technical standards which shall further specify the criteria referred to in paragraph 1 on the basis of which the requirement for own funds and permissible liabilities is to be determined in accordance with this Article.

deleted

EBA shall submit those draft regulatory standards to the Commission by [1 month after the entry into force].

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 1090/2010.

Or. en

Justification

The methodology is including in the Level 1 text and therefore an additional RTS is unnecessary and duplicative

Amendment 361
Ernest Urtasun, Sven Giegold, Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45c – paragraph 8 – subparagraph 1

Text proposed by the Commission

EBA shall draft regulatory technical standards which shall further specify the criteria referred to in paragraph 1 on the basis of which the requirement for own funds and permissible liabilities is to be determined in accordance with this Article.

Amendment

EBA shall draft regulatory technical standards which shall further specify the criteria referred to in paragraph 1 on the basis of which the requirement for own funds and permissible liabilities is to be determined in accordance with this Article **and for further specifying a detailed methodology for determining additional unexpected and unforeseen losses in accordance with article 45e as well as for determining the costs that may arise from implementing either resolution actions or the business reorganisation plan as referred to in paragraph 3 and 4 of this Article.**

Or. en

Amendment 362

Ernest Urtasun, Sven Giegold, Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45d – title

Text proposed by the Commission

Determination of the minimum requirement for own funds and eligible liabilities for entities of G-SIIs

Amendment

Determination of the minimum requirement for own funds and eligible liabilities for entities of G-SIIs, ***O-SIIs and institutions not considered as less significant in accordance with Article 6 paragraph 4 of Council Regulation (EU) No 1024/2013***

Or. en

Amendment 363

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45d – paragraph 1

Text proposed by the Commission

Amendment

1. The requirement referred to in Article 45(1) of a resolution entity that is a G-SII or part of a G-SII shall consist of the following:

deleted

(a) the requirement referred to in Article 92a of Regulation (EU) No 575/2013; and

(b) any additional requirement for own funds and eligible liabilities determined by the resolution authority specific to the entity in accordance with paragraph 2, which shall be met with liabilities that meet the conditions of Article 45b.

Or. en

Amendment 364

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45d – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. The requirement referred to in Article 45(1) of a resolution entity that is a G-SII or part of a G-SII shall consist of the following:

1. The requirement referred to in Article 45(1) of a resolution entity that is a G-SII, ***O-SIIs and institutions subject to direct supervision by the SSM*** or part of a G-SII, ***O-SIIs and institutions not considered as less significant in accordance with Article 6 paragraph 4 of***

Council Regulation (EU) No 1024/2013
shall **at least** consist of the following:

Or. en

Amendment 365

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45d – paragraph 1 – point a

Text proposed by the Commission

(a) the requirement referred to in Article 92a of Regulation (EU) No 575/2013; **and**

Amendment

(a) ***the greater of the following:***

(i) the requirement referred to in Article 92a of Regulation (EU) No 575/2013;

(ii) ***8% of total liabilities and own funds.***

Or. en

Amendment 366

Anne Sander, Alain Cadec, Alain Lamassoure

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45d – paragraph 1 – point b

Text proposed by the Commission

(b) any additional requirement for own funds and eligible liabilities determined by the resolution authority specific to the entity in accordance with paragraph 2, which shall be met with liabilities that meet the conditions of Article 45b.

Amendment

(b) any additional requirement for own funds and eligible liabilities determined by the resolution authority specific to the entity in accordance with paragraph 2, which shall be met with liabilities that meet the conditions of Article 45b ***(1) and (2).***

This additional requirement shall be only provided and calculated with respect to the requirement referred to in point (a) of Article 45(2).

Or. en

Justification

For G-SIBs, the leverage constraint in CRR 2 must remain an absolut cap. The resolution authority should be entitled to require an add-on above TLAC on the RWA requirement only.- the subordinated part of the TLAC must be a cap for the subordinated requirement imposed to G-SIBs. Any add-on should be fulfilled with ordinary senior unsecured debts and possibly some structured notes.

Amendment 367
Burkhard Balz

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45d – paragraph 1 – point b

Text proposed by the Commission

(b) any additional requirement for own funds and eligible liabilities determined by the resolution authority specific to the entity in accordance with paragraph 2, which shall be met with liabilities that meet the conditions of Article **45b**.

Amendment

(b) any additional requirement for own funds and eligible liabilities determined by the resolution authority specific to the entity in accordance with paragraph 2, which shall be met with liabilities that meet the conditions of Article **72 a of Regulation (EU) No 575/2013**.

Or. en

Amendment 368
Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45d – paragraph 2

Text proposed by the Commission

Amendment

2. The resolution authority may impose an additional requirement for own funds and eligible liabilities referred to in point (b) of paragraph 1 only: *deleted*

(a) where the requirement referred to in point (a) of paragraph 1 is not sufficient to fulfil the conditions set out in Article 45c; and

(b) to an extent that the amount of required own funds and eligible liabilities does not exceed a level that is necessary to fulfil the conditions of Article 45c.

Or. en

Amendment 369

Pedro Silva Pereira, Roberto Gualtieri, Luigi Morgano, Doru-Claudian Frunzuliță, Costas Mavrides

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45d – paragraph 2

Text proposed by the Commission

Amendment

2. The resolution authority may impose an additional requirement for own funds and eligible liabilities referred to in point (b) of paragraph 1 only: *deleted*

(a) where the requirement referred to in point (a) of paragraph 1 is not sufficient to fulfil the conditions set out in Article 45c; and

(b) to an extent that the amount of required own funds and eligible liabilities does not exceed a level that is necessary to fulfil the conditions of Article 45c.

Or. en

Amendment 370

Esther de Lange

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45d – paragraph 2 – introductory part

Text proposed by the Commission

2. The resolution authority may impose an additional requirement for own funds and eligible liabilities referred to in point (b) of paragraph 1 **only**:

Amendment

2. The resolution authority may impose an additional requirement for own funds and eligible liabilities referred to in point (b) of paragraph 1 **where the requirement referred to in point (a) of paragraph 1 is not sufficient to fulfil the conditions set out in Article 45c.**

Or. en

Amendment 371

Burkhard Balz

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45d – paragraph 2 – introductory part

Text proposed by the Commission

2. The resolution authority **may** impose an additional requirement for own funds and eligible liabilities referred to in point (b) of paragraph 1 **only**:

Amendment

2. The resolution authority **shall** impose an additional requirement for own funds and eligible liabilities referred to in point (b) of paragraph 1 **to the extent necessary to fulfill the conditions of Article 45c.**

Or. en

Amendment 372

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU
Article 45d – paragraph 2 – introductory part

Text proposed by the Commission

2. The resolution authority **may** impose an additional requirement for own funds and eligible liabilities referred to in point (b) of paragraph 1 only:

Amendment

2. The resolution authority **shall** impose an additional requirement for own funds and eligible liabilities referred to in point (b) of paragraph 1 only:

Or. en

Amendment 373
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45d – paragraph 2 – point a

Text proposed by the Commission

(a) *where the requirement referred to in point (a) of paragraph 1 is not sufficient to fulfil the conditions set out in Article 45c; and*

deleted

Amendment

Or. en

Amendment 374
Ernest Urtasun, Sven Giegold, Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45d – paragraph 2 – point a

Text proposed by the Commission

(a) where the requirement referred to in point (a) of paragraph 1 is **not sufficient** to fulfil the conditions set out in Article 45c; and

Amendment

(a) where the requirement referred to in point (a) of paragraph 1 is **likely to be insufficient** to fulfil the conditions set out in Article 45c; and

Amendment 375
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45d – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) to an extent that the amount of required own funds and eligible liabilities does not exceed a level that is necessary to fulfil the conditions of Article 45c. *deleted*

Or. en

Amendment 376
Ernest Urtasun, Sven Giegold, Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45d – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) to an extent that the amount of required own funds and eligible liabilities does *not exceed a level that is necessary to* fulfil the conditions of Article 45c.

(b) to an extent that the amount of required own funds and eligible liabilities does fulfil the conditions of Article 45c.

Or. en

Amendment 377
Ernest Urtasun, Sven Giegold, Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU
Article 45d – paragraph 3 – introductory part

Text proposed by the Commission

3. Where more than one ***G-SII entity*** belonging to the same EU G-SII are resolution entities, the relevant resolution authorities shall calculate the amount referred in paragraph 2,

Amendment

3. Where more than one ***of the entities referred to in the first subparagraph of paragraph 1*** belonging to the same EU G-SII ***O-SIIs and institutions subject to direct supervision by the SSM*** are resolution entities, the relevant resolution authorities shall calculate the amount referred in paragraph 2,

Or. en

Amendment 378

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU
Article 45d – paragraph 3 – introductory part

Text proposed by the Commission

3. Where more than one G-SII entity belonging to the same EU G-SII are resolution entities, the relevant resolution authorities shall calculate the ***amount*** referred ***in paragraph 2***,

Amendment

3. Where more than one G-SII entity belonging to the same EU G-SII are resolution entities, the relevant resolution authorities shall calculate the ***requirement*** referred ***to in Article 92a of Regulation (EU) No 575/2013***,

Or. en

Amendment 379

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU
Article 45d – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) for the Union parent entity as if it was the only resolution entity of the EU G-SII.

(b) for the Union parent entity as if it was the only resolution entity of the EU G-SII, ***O-SII and other relevant institutions***.

Or. en

Amendment 380

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45d – paragraph 4

Text proposed by the Commission

Amendment

4. The resolution authority's decision to impose an additional requirement of own funds and eligible liabilities under point (b) of paragraph 1, shall contain the reasons for that decision, including a full assessment of the elements referred to in paragraph 2.

deleted

Or. en

Amendment 381

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45d – paragraph 4

Text proposed by the Commission

Amendment

4. The resolution authority's decision to impose an additional requirement of own funds and eligible liabilities under point (b) of paragraph 1, shall contain the

4. The resolution authority's decision to impose an additional requirement of own funds and eligible liabilities under point (b) of paragraph 1, shall contain the

reasons for that decision, *including a full assessment of the elements referred to in paragraph 2.*

reasons for that decision.

Or. en

Amendment 382
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45d – paragraph 4

Text proposed by the Commission

4. The resolution authority's decision to impose an additional requirement of own funds and eligible liabilities under point (b) of paragraph 1, shall contain the reasons for that decision, including a full assessment of the elements referred to in paragraph 2.

Amendment

4. The resolution authority's decision to **not** impose an additional requirement of own funds and eligible liabilities under point (b) of paragraph 1, shall contain the reasons for that decision, including a full assessment of the elements referred to in paragraph 2.

Or. en

Amendment 383
Danuta Maria Hübner

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45e

Text proposed by the Commission

[...]

Amendment

deleted

Or. en

Amendment 384
Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45e

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Amendment 385
Marco Zanni, Bernard Monot, Gerolf Annemans

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45e

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Justification

The Guidance would be a pro cyclical tool: in phase of downturn, the RA would impose mark ups on the MREL level, putting the institutions balance sheet and income statements under further stress.

Amendment 386
Marco Valli

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59
Article 45e

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Amendment 387

Syed Kamall

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45e

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Justification

MREL guidance is unnecessary given the tools available to resolution authorities already. It adds unnecessary complexity to the process.

Amendment 388

Thierry Cornillet

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45e – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

The resolution authority may give guidance to an entity to have own funds and eligible liabilities that fulfil the conditions of Article 45b *or* 45g(3) in excess of the levels set out in Article 45c and Article 45d that provides for additional amounts for the following purposes:

The resolution authority may give guidance to an entity ***subject to the requirement referred to in Article 45(1)*** to have own funds and eligible liabilities that fulfil the conditions of Article 45b ***except for 45b(3) or the conditions of 45g(3)*** in excess of the levels set out in Article 45c and Article 45d that provides for additional amounts for the following purposes:

Or. en

Justification

Amendment about the "quality" of the guidance

Amendment 389

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45e – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

The resolution authority may give guidance to an entity to have own funds and eligible liabilities that fulfil the conditions of Article 45b or 45g(3) in excess of the levels set out in Article 45c and Article 45d that provides for additional amounts for the following purposes:

Amendment

The resolution authority may give guidance to an entity to have own funds and eligible liabilities that fulfil the conditions of Article 45b(**1**) or 45g(3) in excess of the levels set out in Article 45c and Article 45d that provides for additional amounts for the following purposes:

Or. en

Justification

For proportionality reasons, resolution authorities should not have the power to require institutions to meet the guidance component of the MREL with subordinated instruments – subordination should be limited to the MREL requirement. Therefore, the reference should be to Article 45b(1) only, and not to the entire Article 45b.

Amendment 390

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45e – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

The resolution authority *may* give guidance to an entity to have own funds and eligible liabilities that fulfil the conditions of Article 45b or 45g(3) in excess of the levels set out in Article 45c and Article 45d that provides for additional amounts for the

Amendment

The resolution authority *shall* give guidance to an entity to have own funds and eligible liabilities that fulfil the conditions of Article 45b or 45g(3) in excess of the levels set out in Article 45c and Article 45d that provides for additional

following purposes:

amounts for the following purposes:

Or. en

Amendment 391

Barbara Kappel

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45e – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

The resolution authority **may give** guidance **to an entity to have** own funds and eligible liabilities that fulfil the conditions of Article 45b or 45g(3) **in excess of** the levels set out in Article 45c and Article 45d **that provides for additional amounts for the following purposes:**

Amendment

After consulting the resolution authority, **institutions shall establish an adequate level of** guidance own funds and eligible liabilities that fulfil the conditions of Article 45b(1) or 45g(3) **which is sufficiently above** the levels set out in Article 45c and Article 45d **in order:**

Or. en

Amendment 392

Caroline Nagtegaal

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45e – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

The resolution authority **may give** guidance **to an entity to have** own funds and eligible liabilities that fulfil the conditions of Article 45b or 45g(3) **in excess of** the levels set out in Article 45c and Article 45d **that provides for additional amounts for the following purposes:**

Amendment

An institution shall, after consultation of the resolution authority, **set a satisfactory level of** guidance **for its** own funds and eligible liabilities that fulfil the conditions of Article 45b or 45g(3) **in excess of** the levels set out in Article 45c and Article 45d **in order:**

Or. en

Amendment 393

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45e – paragraph 1 – subparagraph 1 – point b

Text proposed by the Commission

(b) to ensure that, ***in the event of*** resolution, a sufficient market confidence in the entity is sustained through capital instruments in addition to the requirement in point (b) of Article 45c(2) ('market confidence buffer').

Amendment

(b) to ensure that, ***following resolution or the exercise of the power to write down or convert relevant capital instruments and eligible liabilities in accordance with Article 59***, a sufficient market confidence in the entity is sustained through capital instruments in addition to the requirement in point(b) of Article 45c(2) ('market confidence buffer').

Or. en

Justification

As in the requirement, the recapitalisation amount in the guidance has to be calculated taking into account how the group and the institution will be after resolution. Therefore, it has to be clear that the market confidence buffer is calculated taking into account the needs of the bank following resolution.

Amendment 394

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45e – paragraph 2 – subparagraph 1

Text proposed by the Commission

The amount of the guidance given in accordance with of paragraph 1 may be set only where the competent authority has already set its own guidance in accordance with Article 104b of Directive

Amendment

deleted

2013/36/EU and shall not exceed the level of that guidance.

Or. en

Amendment 395
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45e – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

The amount of the guidance given in accordance with of paragraph 1 may be set only where the competent authority has already set its own guidance in accordance with Article 104b of Directive 2013/36/EU and shall not exceed the level of that guidance.

deleted

Or. en

Amendment 396
Pedro Silva Pereira, Jonás Fernández, Luigi Morgano, Andrea Cozzolino, Roberto Gualtieri, Doru-Claudian Frunzulică, Costas Mavrides

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45e – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

The amount of the guidance given in accordance with of paragraph 1 may be set only where the competent authority has already set its own guidance in accordance with Article 104b of Directive 2013/36/EU and shall not exceed the level of that guidance.

The amount of the guidance given in accordance with ***point (a)*** of paragraph 1 may be set only where the competent authority has already set its own guidance in accordance with Article 104b of Directive 2013/36/EU and ***the resolution authority determines that the requirement referred to in point (a) of Article 45c(2) would not be sufficient to absorb all the***

losses in resolution taking into account the entity's business model, funding model and risk profile or to reduce or remove an impediment to resolvability or absorb losses on holdings of MREL instruments issued by other entities included in the same resolution group. The amount of the guidance given in accordance with point (a) of paragraph 1 shall not exceed the level of that guidance.

Or. en

Justification

The level of guidance should not be without limits, and the conditions under which resolution authorities can ask for MREL guidance need to be better framed in the law so as to ensure that the overall MREL requirement is not overcalibrated.

Amendment 397 **Barbara Kappel**

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45e – paragraph 2 – subparagraph 1

Text proposed by the Commission

The amount of the guidance given in accordance with of paragraph 1 may be set only where *the competent authority has* already set *its own guidance* in accordance with Article 104b of Directive 2013/36/EU and shall not exceed the level of that guidance.

Amendment

The amount of the guidance given in accordance with *point (a)* of paragraph 1 may be set only where *guidance is* already set in accordance with Article 104b of Directive 2013/36/EU and shall not exceed the level of that guidance.

Or. en

Amendment 398 **Caroline Nagtegaal**

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU
Article 45e – paragraph 2 – subparagraph 1

Text proposed by the Commission

The amount of the guidance given in accordance with of paragraph 1 may be set only where ***the competent authority has already set its own*** guidance in accordance with Article 104b of Directive 2013/36/EU and shall not exceed the level of that guidance.

Amendment

The amount of the guidance given in accordance with ***point (a)*** of paragraph 1 may be set only where guidance ***is established*** in accordance with Article 104b of Directive 2013/36/EU and shall not exceed the level of that guidance.

Or. en

Amendment 399

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45e – paragraph 2 – subparagraph 2

Text proposed by the Commission

The amount of the guidance given in accordance with point (b) of paragraph 1 shall not exceed the amount of the combined buffer requirement referred to in point (6) of Article 128 of Directive 2013/36/EU, except for the requirement referred to in point (a) of that provision, ***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 that is not longer than one year.***

Amendment

The amount of the guidance given in accordance with point (b) of paragraph 1 may be set when the resolution authority determines that the requirement referred to in point (b) of Article 45c(2) would not be sufficient to sustain market confidence and ensure both the continued provision of critical economic functions by the entity and the access to funding without recourse to extraordinary financial support other than contributions from resolution financing arrangements. The amount of the guidance given in accordance with point (b) of paragraph 1 shall not exceed the amount of the combined buffer requirement referred to in point (6) of Article 128 of Directive 2013/36/EU, except for the requirement referred to in point (a) of that provision.

Or. en

Justification

The level of guidance should not be without limits, and the conditions under which resolution authorities can ask for MREL guidance need to be better framed in the law so as to ensure that the overall MREL requirement is not overcalibrated.

Amendment 400

Caroline Nagtegaal, Thierry Cornillet

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45e – paragraph 2 – subparagraph 2

Text proposed by the Commission

The amount of the guidance given in accordance with point (b) of paragraph 1 shall not exceed the amount of the combined buffer requirement referred to in point (6) of Article 128 of Directive 2013/36/EU, except for the requirement referred to in point (a) of that provision, ***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 that is not longer than one year.***

Amendment

The amount of the guidance given in accordance with point (b) of paragraph 1 shall not exceed the amount of the combined buffer requirement referred to in point (6) of Article 128 of Directive 2013/36/EU, except for the requirement referred to in point (a) ***and (d)*** of that provision.

Or. en

Amendment 401

Barbara Kappel

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45e – paragraph 2 – subparagraph 2

Text proposed by the Commission

The amount of the guidance given in accordance with point (b) of paragraph 1 shall not exceed the amount of the

Amendment

The amount of the guidance given in accordance with point (b) of paragraph 1 shall not exceed the amount of the

combined buffer requirement referred to in point (6) of Article 128 of Directive 2013/36/EU, except for the requirement referred to in point (a) of that provision, ***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 that is not longer than one year.***

combined buffer requirement referred to in point (6) of Article 128 of Directive 2013/36/EU, except for the requirement referred to in point (a) ***and (d)*** of that provision.

Or. en

Amendment 402

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45e – paragraph 2 – subparagraph 2

Text proposed by the Commission

The amount of the guidance given in accordance with point (b) of paragraph 1 shall ***not exceed*** the amount of the combined buffer requirement referred to in point (6) of Article 128 of Directive 2013/36/EU, ***except for the requirement referred to in point (a) of that provision, 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 that is not longer than one year.***

Amendment

The amount of the guidance given in accordance with point (b) of paragraph 1 shall ***be equal to*** the amount of the combined buffer requirement referred to in point (6) of Article 128 of Directive 2013/36/EU, ***to sustain market confidence and ensure both the continued provision of critical economic functions by the institution and the access to funding without recourse to extraordinary financial support other than contributions from resolution financing arrangements, consistently with Article 101(2) and Article 44(5) and (8) of this Directive.***

Or. en

Amendment 403

Esther de Lange

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45e – paragraph 2 – subparagraph 2

Text proposed by the Commission

The amount of the guidance given in accordance with point (b) of paragraph 1 shall **not exceed** the amount of the combined buffer requirement referred to in point (6) of Article 128 of Directive 2013/36/EU, except for the requirement referred to in point (a) of that provision, 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 that is not longer than one year.

Amendment

The amount of the guidance given in accordance with point (b) of paragraph 1 shall **be equal to** the amount of the combined buffer requirement referred to in point (6) of Article 128 of Directive 2013/36/EU, except for the requirement referred to in point (a) of that provision, 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 that is not longer than one year.

Or. en

Amendment 404
Caroline Nagtegaal

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45e – paragraph 2 – subparagraph 3

Text proposed by the Commission

The resolution authority shall provide to the entity the reasons and a full assessment for the need and the level of the guidance given in accordance with this Article.

Amendment

deleted

Or. en

Amendment 405
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU
Article 45e – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

The resolution authority shall provide to the entity the reasons and a full assessment for the need and the level of the guidance given in accordance with this Article.

deleted

Or. en

Justification

The resolution authority should not be able to impose a guidance above MREL/TLAC requirements. It should be the responsibility of banks to establish a sufficient target level over MREL/TLAC requirements, after consulting the relevant resolution authority. Such a target level (guidance) should be based on cyclical economic fluctuations and relevant stress tests. This would be fully in line with the establishment of the guidance on additional own funds.

Amendment 406
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45e – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

The resolution authority shall provide to the entity the reasons and a full assessment for the need ***and the*** level of the guidance given in accordance with this Article.

The resolution authority shall provide to the entity the reasons and a full assessment for the need ***to deviate from the default*** level of the guidance given in accordance with this Article.

Or. en

Amendment 407
Pedro Silva Pereira, Jonás Fernández, Luigi Morgano, Andrea Cozzolino, Roberto Gualtieri, Doru-Claudian Frunzulică, Costas Mavrides

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45e – paragraph 3

Text proposed by the Commission

Amendment

3. *Where an entity consistently fails to have additional own funds and eligible liabilities as expected under the guidance referred to in the first paragraph, the resolution authority may require that the amount of the requirement referred to in Article 45c(2) be increased to cover the amount of the guidance given pursuant to this Article.*

deleted

Or. en

Justification

The resolution framework already provides for the necessary incentives for institutions to comply with their MREL guidance, and any breaches of the guidance should be dealt with by resolution authorities resorting to their existing powers, namely the powers to remove impediments to resolution, and not through the conversion of the guidance into MREL. The conversion of guidance into requirement would lead to resolution authorities and banks losing flexibility, as it would have as an immediate consequence the breach of the Combined Buffer Requirement and the triggering of MDA restrictions referred to in Article 141 CRD.

Amendment 408
Ernest Urtasun, Sven Giegold, Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45e – paragraph 3

Text proposed by the Commission

Amendment

3. Where an entity ***consistently fails*** to have additional own funds and eligible liabilities as expected under the guidance referred to in the first paragraph, ***the resolution authority may require that the amount of the requirement referred to in***

3. Where ***the failure of*** an entity to have additional own funds and eligible liabilities as expected under the guidance referred to in the first paragraph, ***lasts longer than six months, the relevant authorities shall exercise their powers***

Article 45c(2) *be increased to cover the amount of the guidance given pursuant to this Article.*

under Article 45k.

Or. en

Amendment 409
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45e – paragraph 3

Text proposed by the Commission

3. Where an entity **consistently** fails to have additional own funds and eligible liabilities as expected under the guidance referred to in the first paragraph, the resolution authority may require that the amount of the requirement referred to in Article 45c(2) be increased to cover the amount of the guidance given pursuant to this Article.

Amendment

3. Where an entity fails to have additional own funds and eligible liabilities as expected under the guidance referred to in the first paragraph, the resolution authority may require that the amount of the requirement referred to in Article 45c(2) be increased to cover the amount of the guidance given pursuant to this Article.

Or. en

Amendment 410
Ernest Urtasun, Sven Giegold, Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45e – paragraph 4

Text proposed by the Commission

4. An entity **that fails** to have additional own funds and eligible liabilities as expected under the guidance referred to in the first paragraph shall **not** be subject to the restrictions referred to in Article 141 of Directive 2013/36/EU.

Amendment

4. **A failure by** an entity to have additional own funds and eligible liabilities as expected under the guidance referred to in the first paragraph, shall be subject to the restrictions referred to in Article 141 of Directive 2013/36/EU **with the shortfall**

relative to the guidance amount multiplied by a factor G being treated as a shortfall relative to requirements in Article 45c and Article 45d .

The factor G shall be calculated as $m/6$ where m is the number of days that have elapsed since the guidance was provided divided by 30.

Or. en

Amendment 411
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45e – paragraph 4

Text proposed by the Commission

4. An entity that fails to have additional own funds and eligible liabilities as expected under the guidance referred to in the first paragraph shall **not** be subject to the restrictions referred to in Article 141 of Directive 2013/36/EU.

Amendment

4. An entity that **for two or more reporting periods as set out in Article 45i(1)** fails to have additional own funds and eligible liabilities as expected under the guidance referred to in the first paragraph shall be subject to the restrictions referred to in Article 141 of Directive 2013/36/EU.

Or. en

Justification

As this in practice leads to a grace period of up to six month before MDA restrictions come into force, the grace period as foreseen in Article 141a(2) point (c) should be deleted.

Amendment 412
Jakob von Weizsäcker, Paul Tang

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45e – paragraph 4

Text proposed by the Commission

4. An entity that fails to have additional own funds and eligible liabilities as expected under the guidance referred to in the first paragraph shall **not** be subject to the restrictions referred to in Article 141 of Directive 2013/36/EU.

Amendment

4. An entity that fails to have additional own funds and eligible liabilities as expected under the guidance referred to in the first paragraph shall be subject to the restrictions referred to in Article 141 of Directive 2013/36/EU.

Or. en

Amendment 413
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45f – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. For resolution groups as defined in point (b) of Article 2(1)(83b), the relevant resolution authority decides which resolution entities of the resolution group, identified pursuant to point (b) of Article 2(1)(83b), shall comply with the requirement referred to in Articles 45c(3) and 45(e) to ensure that the resolution group as a whole complies with the requirement referred to in paragraphs (1) and (2).

Or. en

Amendment 414
Thierry Cornillet

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 1 – subparagraph 1

Text proposed by the Commission

Institutions that are subsidiaries of a resolution entity and are not resolution entities themselves shall comply with the requirements laid down in Articles 45c to 45e on an individual basis. A resolution authority may, after having consulted the competent authority, decide to apply the requirement laid down in this Article to an entity referred to in points (b), (c) or (d) of Article 1(1) that is a subsidiary of a resolution entity and is not a resolution entity itself.

Amendment

Institutions that are **material** subsidiaries **as defined in Regulation 575/2013/EU** of a resolution entity and are not resolution entities themselves shall comply with the requirements laid down in Articles 45c to 45e on an individual basis. A resolution authority may, after having consulted the competent authority, decide to apply the requirement laid down in this Article to an entity referred to in points **(a)**, (b), (c) or (d) of Article 1(1) that is a subsidiary of a resolution entity and is not a resolution entity itself.

Or. en

Justification

Consistency with the FSB TLAC Term sheet and level playing field with the EU subsidiaries of non-EU GSIB's.

Amendment 415

Anne Sander, Alain Cadec, Alain Lamassoure

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 1 – subparagraph 1

Text proposed by the Commission

Institutions that are subsidiaries of a resolution entity and are not resolution entities themselves shall comply with the requirements laid down in Articles 45c to 45e on an individual basis. A resolution authority may, after having consulted the competent authority, decide to apply the requirement laid down in this Article to an entity referred to in points (b), (c) or (d) of Article 1(1) that is a subsidiary of a resolution entity and is not a resolution entity itself.

Amendment

Institutions that are **material** subsidiaries **as defined in Regulation (EU) No 575/2013** of a resolution entity and are not resolution entities themselves shall comply with the requirements laid down in Articles 45c to 45e on an individual basis. A resolution authority may, after having consulted the competent authority, decide to apply the requirement laid down in this Article to an entity referred to in points (b), (c) or (d) of Article 1(1) that is a subsidiary of a resolution entity and is not a resolution

entity itself.

Or. en

Justification

This amendment aim to bring consistency with the FSB TLAC Term Sheet and provide level playing field with the EU subsidiaries of non-EU G-SIB's.

Amendment 416

Luigi Morgano, Andrea Cozzolino

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 1 – subparagraph 1

Text proposed by the Commission

Institutions that are subsidiaries of a resolution entity and are not resolution entities themselves shall comply with the requirements laid down in **Articles 45c to 45e** on an individual basis. A resolution authority may, after having consulted the competent authority, decide to apply the requirement laid down in this Article to an entity referred to in points (b), (c) or (d) of Article 1(1) that is a subsidiary of a resolution entity and is not a resolution entity itself.

Amendment

Institutions that are **material** subsidiaries of a resolution entity, **as defined in Regulation (EU) No 575/2013**, and are not resolution entities themselves, shall comply with the requirements laid down in **Article 45c** on an individual basis. A resolution authority may, after having consulted the competent authority, decide to apply the requirement laid down in this Article to an entity referred to in points **(a)**, (b), (c) or (d) of Article 1(1) that is a subsidiary of a resolution entity and is not a resolution entity itself.

Or. en

Justification

While the Banking Union is admittedly still incomplete, the EU considers itself a single jurisdiction when applying the internal TLAC and does not require banks to apply the international standard for internal loss absorbency to EU banks. The same should be valid for internal MREL requirements. This to align to the FSB TLAC termsheet, which refers to material subsidiaries.

Amendment 417

Barbara Kappel

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 1 – subparagraph 1

Text proposed by the Commission

Institutions that are subsidiaries of a resolution entity and are not resolution entities themselves shall comply with the requirements laid down in Articles 45c to 45e **on an individual** basis. A resolution authority may, after having consulted the competent authority, decide to apply the requirement laid down in this Article to an entity referred to in points (b), (c) or (d) of Article 1(1) that is a subsidiary of a resolution entity and is not a resolution entity itself.

Amendment

Institutions that are **material** subsidiaries of a resolution entity and are not resolution entities themselves shall comply with the requirements laid down in Articles 45c to 45e **a consolidated material sub-group** basis. A resolution authority may, after having consulted the competent authority, decide to apply the requirement laid down in this Article to an entity referred to in points (b), (c) or (d) of Article 1(1) that is a **material** subsidiary of a resolution entity and is not a resolution entity itself.

Or. en

Amendment 418

Luigi Morgano, Andrea Cozzolino

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 1 – subparagraph 2

Text proposed by the Commission

The requirement referred to in Article 45(1) of an entity referred to in the first subparagraph shall be determined in accordance with Article 45h and on the basis of the requirements laid down in **Articles 45c to 45e**.

Amendment

The requirement referred to in Article 45(1) of an entity referred to in the first subparagraph shall be determined in accordance with Article 45h and on the basis of the requirements laid down in **Article 45c**.

Or. en

Justification

While the Banking Union is admittedly still incomplete, the EU considers itself a single jurisdiction when applying the internal TLAC and does not require banks to apply the international standard for internal loss absorbency to EU banks. The same should be valid for internal MREL requirements.

Amendment 419

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 2

Text proposed by the Commission

Amendment

2. The requirement referred to in Article 45(1) of entities referred to in the first paragraph shall be subject to the following conditions:

deleted

(a) the resolution entity complies with the consolidated requirement referred to in Article 45f;

(b) the sum of all requirements to be applied to the resolution group's subsidiaries shall be covered by and not exceed the consolidated requirement referred to in Article 45f unless this is only due to the effects of the consolidation at the level of the resolution group in accordance with Article 45f(1).

(c) the requirement shall not exceed the contribution of the subsidiary to the consolidated requirement referred to in Article 45f(1).

(d) it shall fulfil the eligibility criteria provided in paragraph 3.

Or. en

Justification

Resolution authorities should be confident that there is sufficient MREL in each relevant

entity of a group. Under a resolution strategy that covers both the parent entity and its subsidiaries (i.e. SPE strategy), 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. The quantum of MREL issued at the level of the parent company and subscribed by external creditors should therefore be consistent and reflect the quantum of MREL needed at the level of the subsidiaries and subscribed by the parent company. This need for consistency implies that the calibration of the group's MREL requirements should be based on a bottom-up assessment of the actual loss absorption needs of the subsidiaries. As a result, we suggest deleting the constraints imposed on the calibration of MREL at subsidiary level. Indeed, these constraints impose a top-down approach according to which the MREL at subsidiary level is de facto constrained by the quantum of MREL set at parent company level, irrespective of the size, the systemic importance or the risk profile of the subsidiaries.

Amendment 420

Mady Delvaux, Hugues Bayet

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 2

Text proposed by the Commission

Amendment

- 2. *The requirement referred to in Article 45(1) of entities referred to in the first paragraph shall be subject to the following conditions:***
- (a) *the resolution entity complies with the consolidated requirement referred to in Article 45f;***
- (b) *the sum of all requirements to be applied to the resolution group's subsidiaries shall be covered by and not exceed the consolidated requirement referred to in Article 45f unless this is only due to the effects of the consolidation at the level of the resolution group in accordance with Article 45f(1).***
- (c) *the requirement shall not exceed the contribution of the subsidiary to the consolidated requirement referred to in Article 45f(1).***
- (d) *it shall fulfil the eligibility criteria provided in paragraph 3.***
- deleted***

Justification

In order for an SPE strategy to work, subsidiaries need to be endowed with sufficient internal MREL in order to enable them to upstream their losses to the resolution entity. The constraints imposed by paragraph 2 would put at risk this mechanism and would thus entail that SPE strategies would not be operational. The amount of internal MREL allocated to a given subsidiary should solely depend on the risks inherent to the balance sheet of that subsidiary. The sum of these internal MREL requirements will then feed into the determination of the level of external MREL to be held at group level.

Amendment 421
Stanisław Ożóg

Proposal for a directive
Article 1 – paragraph 23
 Directive 2014/59/EU
 Article 45g – paragraph 2

Text proposed by the Commission

Amendment

2. The requirement referred to in Article 45(1) of entities referred to in the first paragraph shall be subject to the following conditions:

deleted

(a) the resolution entity complies with the consolidated requirement referred to in Article 45f;

(b) the sum of all requirements to be applied to the resolution group's subsidiaries shall be covered by and not exceed the consolidated requirement referred to in Article 45f unless this is only due to the effects of the consolidation at the level of the resolution group in accordance with Article 45f(1).

(c) the requirement shall not exceed the contribution of the subsidiary to the consolidated requirement referred to in Article 45f(1).

(d) it shall fulfil the eligibility criteria provided in paragraph 3.

Justification

This amendment is to ensure the flexibility for all resolution authorities in the group when determining the required MREL level and thus the operationalization of the SPE strategy. Under the SPE strategy (involving both the parent entity and its subsidiaries), subsidiaries need sufficient internal MREL in order to be able to upstream their losses to the resolution entity. MREL should be met on individual basis in the first instance and the requirement on the group level shall be the sum of requirements for group entities (bottom-up approach) and not on the contrary. Resolution authorities from home countries should have the capacity to adjust the external MREL requirement upwards or downwards, depending on the sum of the loss absorption/recapitalization needs prepositioned in each subsidiary of the resolution group. The solution proposed by the COM imposes a top-down approach according to which the MREL at subsidiary level is de facto constrained by the level of the MREL set at parent company level, irrespective of the specific needs of that subsidiary determined by its size, its systemic importance or its risk profile.

Amendment 422 **Syed Kamall**

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 2 – introductory part

Text proposed by the Commission

2. The requirement referred to in Article 45(1) of entities referred to in the first paragraph shall be **subject to** the following conditions:

Amendment

2. The requirement referred to in Article 45(1) of entities referred to in the first paragraph shall be **set in accordance with** the following conditions:

Or. en

Amendment 423 **Barbara Kappel**

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 2 – point b

Text proposed by the Commission

(b) the sum of all requirements to be applied to the resolution group's

Amendment

(b) the sum of all requirements to be applied to the resolution group's **material**

subsidiaries shall be covered by and not exceed the consolidated requirement referred to in Article 45f unless this is only due to the effects of the consolidation at the level of the resolution group in accordance with Article 45f(1).

subsidiaries shall be covered by and not exceed the consolidated requirement referred to in Article 45f unless this is only due to the effects of the consolidation at the level of the resolution group in accordance with Article 45f(1).

Or. en

Amendment 424
Syed Kamall

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 2 – point c

Text proposed by the Commission

(c) the requirement shall not exceed the contribution of the subsidiary to the consolidated requirement referred to in Article 45f(1).

Amendment

(c) the requirement ***may be set at 75% to 90% of the requirement calculated in accordance with Article 45 (1) and*** shall not exceed the contribution of the subsidiary to the consolidated requirement referred to in Article 45f(1).

Or. en

Justification

The 75% - 90% threshold is in line with the TLAC requirement and should therefore be maintained.

Amendment 425
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 2 – point c

Text proposed by the Commission

(c) the requirement shall not exceed the

Amendment

(c) the requirement shall not exceed the

contribution of the subsidiary to the consolidated requirement referred to in Article 45f(1).

contribution of the *material* subsidiary to the consolidated requirement referred to in Article 45f(1).

Or. en

Amendment 426
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 2 – point d

Text proposed by the Commission

(d) it shall fulfil the eligibility criteria provided in paragraph 3.

Amendment

(d) *subject to paragraph 4*, it shall fulfil the eligibility criteria provided in paragraph 3.

Or. en

Amendment 427
Roberto Gualtieri

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

(d a) the requirement shall not exceed 75% of the consolidated requirement calculated in accordance with Article 45f.

Or. en

Amendment 428
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU
Article 45g – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

(d a) the requirement shall not exceed 75% of the requirement calculated in accordance with Article 45c.

Or. en

Amendment 429
Luigi Morgano, Andrea Cozzolino

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

(d a) the requirement shall not exceed 75% of the requirement calculated in accordance with Article 45c.

Or. en

Justification

A lower maximum cap for internal MREL should be introduced in line with what required by the FSB TLAC international standard.

Amendment 430
Anne Sander, Alain Lamassoure, Alain Cadec

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

(d a) it shall not exceed 90% of the requirement calculated in accordance

with Articles 45c to 45e.

Or. en

Amendment 431
Thierry Cornillet

Proposal for a directive
Article 1 – paragraph 23 (new)
Directive 2014/59/EU
Article 45g – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

(d a) it shall not exceed 90% of the requirement calculated in accordance with Articles 45c to 45e.

Or. en

Justification

Consistency with the FSB TLAC Term sheet and level playing field with the EU subsidiaries of non-EU GSIB's.

Amendment 432
Mady Delvaux, Hugues Bayet

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 3 – point a – point i

Text proposed by the Commission

Amendment

(i) are issued to and bought by the resolution entity;

(i) are issued to and bought by the resolution entity ***either directly or indirectly through other entities in the same resolution group that bought the liabilities from the entity subject to this Article or by an existing shareholder that is not part of the same resolution group as long as the exercise of the power of write down or convert in accordance with***

Articles 59 to 62 does not affect the control of the subsidiary by the resolution entity;

Or. en

Justification

The amendment aims at facilitating the operationalisation of the resolution strategy. It ensures that the loss upstreaming mechanism does not result in a change of the ownership structure of the subsidiary. It thus protects the interests of minority shareholders and accommodates cases such as joint ventures. In doing so it will contribute to avoiding legal disputes before Courts should the mechanism be used.

Amendment 433
Syed Kamall

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 3 – point a – point i

Text proposed by the Commission

(i) are issued to and bought by the resolution entity;

Amendment

(i) are issued to and bought by the resolution entity ***either directly or indirectly through other entities in the same resolution group that bought the liabilities from the entity subject to this Article or by any existing shareholder that is not part of the same resolution group as long as the write down or conversion in accordance with (iv) does not affect the control of the subsidiary by the resolution entity;***

Or. en

Justification

This amendment, which is permitted under the international standard, reflects existing corporate structures which allow for control of subsidiaries changing in in resolution

Amendment 434

Syed Kamall

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 3 – point a – point ii

Text proposed by the Commission

(ii) fulfil the eligibility criteria referred to in Article 72a, except for **point (b)** of Article 72b(2) of Regulation (EU) No 575/2013;

Amendment

(ii) fulfil the eligibility criteria referred to in Article 72a, except for **points (b) and (c)** of Article 72b(2) of Regulation (EU) No 575/2013;

Or. en

Amendment 435

Syed Kamall

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 3 – point a – point iv

Text proposed by the Commission

(iv) **are subject to the power of write down or conversion in accordance with Articles 59 to 62 that is consistent with the resolution strategy of the resolution group, notably by not affecting the control of the subsidiary by the resolution entity.**

Amendment

(iv) **contain contractual provisions which require that the principal amount of the liabilities be written down on a permanent basis or the liabilities be converted to Common Equity Tier 1 instruments:**

(a) by the resolution authority, if the entity meets the conditions for resolution specified in Article 32 (1) (a), (b) and (c) and the home resolution authority consents to or does not object to the conversion and/or write down within 24 hours of notification by the host of its intention to convert and/or write down; or

(b) automatically, if the home resolution authority exercises resolution powers or initiates third country resolution proceedings to implement the global resolution strategy in respect of an

entity which is part of the same resolution group as the issuer;

Or. en

Justification

This provision, which is in line with the FSB's internal TLAC principles, provides for a contractual trigger, which requires home/host consultation if a subsidiary is failing, thereby providing for group resolution.

Amendment 436
Roberto Gualtieri

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 3 – point a – point iv

Text proposed by the Commission

(iv) are subject to the power of write down or conversion in accordance with Articles 59 to 62 that is consistent with the resolution strategy of the resolution group, notably by not affecting the control of the subsidiary by the resolution entity.

Amendment

(iv) are subject to the power of write down or conversion in accordance with Articles 59 to 62 that is consistent with the resolution strategy of the resolution group, notably by not affecting the control of the subsidiary by the resolution entity ***and where consent about the conversion and write down has been given by the home resolution authority.***

Or. en

Amendment 437
Mady Delvaux, Hugues Bayet

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 3 – point b

Text proposed by the Commission

(b) own funds instruments issued to

Amendment

(b) own funds instruments ***that) are***

and bought by *other* entities *than the* resolution *entity when* the exercise of the power of write down or conversion in accordance with Articles 59 to 62 does not affect the control of the subsidiary by the resolution entity.

issued to and bought by entities:

(i) *that are included in the same resolution group, or*

(ii) *that are not included in the same resolution group as long as* the exercise of the power of write down or conversion in accordance with Articles 59 to 62 does not affect the control of the subsidiary by the resolution entity.

Or. en

Justification

The amendment aims at facilitating the operationalisation of the resolution strategy. It ensures that the loss upstreaming mechanism does not result in a change of the ownership structure of the subsidiary. It thus protects the interests of minority shareholders and accommodates cases such as joint ventures. In doing so it will contribute to avoiding legal disputes before Courts should the mechanism be used.

Amendment 438

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. By way of derogation from point (a)(ii) of paragraph 3, liabilities issued before ... [date of entry into force of this amending Directive] which do not meet the conditions set out in points (b) and (g) to (o) of Article 72b(2) of Regulation (EU) No 575/2013 may be included in the amount of own funds and eligible liabilities.

Justification

The BRRD should provide for a grandfathering clause for all the eligible liabilities items issued prior to the date of application of the MREL provisions in CRR that do not meet the criteria that will be introduced by this proposal (ie, the criteria in Article 72b(2) CRR, points (g) to (o)). This should apply both to MREL Pillar 1 as well as to MREL Pillar 2, in their subordinated and non-subordinated components.

Amendment 439

Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias

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

Directive 2014/59/EU

Article 45g – paragraph 4

Text proposed by the Commission

Amendment

- 4. Subject to the agreement of the resolution authorities of the subsidiary and the resolution entity, the requirement may be met with a guarantee of the resolution entity granted to its subsidiary, which fulfils the following conditions:**
- (a) the guarantee is provided for at least the equivalent amount as the amount of the requirement for which it substitutes;**
- (b) the guarantee is triggered when the subsidiary is unable to pay its debts or other liabilities as they fall due or a determination has been made in accordance with Article 59(3) in respect of the subsidiary, whichever is the earliest;**
- (c) the guarantee is collateralised through a financial collateral arrangement as defined in point (a) of Article 2(1) of Directive 2002/47/EC for at least 50 per cent of its amount;**
- (d) the guarantee and financial collateral arrangement are governed by the laws of the Member State where the**
- deleted*

subsidiary is established unless specified otherwise by the resolution authority of the subsidiary;

(e) the collateral backing the guarantee fulfils the requirements of Article 197 of Regulation (EU) No 575/2013, which, following appropriately conservative haircuts, is sufficient to fully cover the amount guaranteed;

(f) the collateral backing the guarantee is unencumbered and in particular is not used as collateral to back any other guarantee;

(g) the collateral has an effective maturity that fulfils the same maturity condition as that for referred to in Article 72c(1) of Regulation (EU) No 575/2013 , and

(h) there are no legal, regulatory or operational barriers to the transfer of the collateral from the resolution entity to the relevant subsidiary, including when resolution action is taken in respect of the resolution entity.

Or. en

Amendment 440

Mady Delvaux, Hugues Bayet

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 4

Text proposed by the Commission

Amendment

4. Subject to the agreement of the resolution authorities of the subsidiary and the resolution entity, the requirement may be met with a guarantee of the resolution entity granted to its subsidiary, which fulfils the following conditions:

deleted

(a) the guarantee is provided for at least the equivalent amount as the amount

of the requirement for which it substitutes;

(b) the guarantee is triggered when the subsidiary is unable to pay its debts or other liabilities as they fall due or a determination has been made in accordance with Article 59(3) in respect of the subsidiary, whichever is the earliest;

(c) the guarantee is collateralised through a financial collateral arrangement as defined in point (a) of Article 2(1) of Directive 2002/47/EC for at least 50 per cent of its amount;

(d) the guarantee and financial collateral arrangement are governed by the laws of the Member State where the subsidiary is established unless specified otherwise by the resolution authority of the subsidiary;

(e) the collateral backing the guarantee fulfils the requirements of Article 197 of Regulation (EU) No 575/2013, which, following appropriately conservative haircuts, is sufficient to fully cover the amount guaranteed;

(f) the collateral backing the guarantee is unencumbered and in particular is not used as collateral to back any other guarantee;

(g) the collateral has an effective maturity that fulfils the same maturity condition as that for referred to in Article 72c(1) of Regulation (EU) No 575/2013 , and

(h) there are no legal, regulatory or operational barriers to the transfer of the collateral from the resolution entity to the relevant subsidiary, including when resolution action is taken in respect of the resolution entity.

Or. en

Justification

Collateralised guarantees present considerable legal uncertainties and do not provide sufficient certainty that internal loss absorbing capacity will be available at the time of resolution. In order to avoid putting at risk the viability of SPE strategies as well as financial stability, the amendment deletes paragraph 4.

Amendment 441

Stanisław Ożóg

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 4

Text proposed by the Commission

Amendment

- 4. Subject to the agreement of the resolution authorities of the subsidiary and the resolution entity, the requirement may be met with a guarantee of the resolution entity granted to its subsidiary, which fulfils the following conditions:**
- (a) the guarantee is provided for at least the equivalent amount as the amount of the requirement for which it substitutes;**
- (b) the guarantee is triggered when the subsidiary is unable to pay its debts or other liabilities as they fall due or a determination has been made in accordance with Article 59(3) in respect of the subsidiary, whichever is the earliest;**
- (c) the guarantee is collateralised through a financial collateral arrangement as defined in point (a) of Article 2(1) of Directive 2002/47/EC for at least 50 per cent of its amount;**
- (d) the guarantee and financial collateral arrangement are governed by the laws of the Member State where the subsidiary is established unless specified otherwise by the resolution authority of the subsidiary;**
- deleted**

(e) the collateral backing the guarantee fulfils the requirements of Article 197 of Regulation (EU) No 575/2013, which, following appropriately conservative haircuts, is sufficient to fully cover the amount guaranteed;

(f) the collateral backing the guarantee is unencumbered and in particular is not used as collateral to back any other guarantee;

(g) the collateral has an effective maturity that fulfils the same maturity condition as that for referred to in Article 72c(1) of Regulation (EU) No 575/2013 , and

(h) there are no legal, regulatory or operational barriers to the transfer of the collateral from the resolution entity to the relevant subsidiary, including when resolution action is taken in respect of the resolution entity.

Or. en

Justification

The possibility to substitute the MREL requirement at subsidiary level by collateralized guarantees granted by the resolution entity substantially weakens the position of subsidiaries and could threaten the implementation of the SPE strategy. Due to important legal and operational concerns associated with such guarantees it is highly questionable whether sufficient level of loss absorption buffers would actually be available at subsidiary level in case of crisis. Therefore, we suggest to delete this possibility.

Amendment 442

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 4

Text proposed by the Commission

Amendment

4. Subject to the agreement of the

deleted

resolution authorities of the subsidiary and the resolution entity, the requirement may be met with a guarantee of the resolution entity granted to its subsidiary, which fulfils the following conditions:

(a) the guarantee is provided for at least the equivalent amount as the amount of the requirement for which it substitutes;

(b) the guarantee is triggered when the subsidiary is unable to pay its debts or other liabilities as they fall due or a determination has been made in accordance with Article 59(3) in respect of the subsidiary, whichever is the earliest;

(c) the guarantee is collateralised through a financial collateral arrangement as defined in point (a) of Article 2(1) of Directive 2002/47/EC for at least 50 per cent of its amount;

(d) the guarantee and financial collateral arrangement are governed by the laws of the Member State where the subsidiary is established unless specified otherwise by the resolution authority of the subsidiary;

(e) the collateral backing the guarantee fulfils the requirements of Article 197 of Regulation (EU) No 575/2013, which, following appropriately conservative haircuts, is sufficient to fully cover the amount guaranteed;

(f) the collateral backing the guarantee is unencumbered and in particular is not used as collateral to back any other guarantee;

(g) the collateral has an effective maturity that fulfils the same maturity condition as that for referred to in Article 72c(1) of Regulation (EU) No 575/2013 , and

(h) there are no legal, regulatory or operational barriers to the transfer of the collateral from the resolution entity to the

relevant subsidiary, including when resolution action is taken in respect of the resolution entity.

Or. en

Justification

The substitution of MREL at subsidiary level by collateralized guarantees raises major legal and operational concerns. These guarantees do not offer any certainty that loss absorbing capacity will actually be available at subsidiary level at the time of the crisis. We suggest to delete this possibility.

Amendment 443
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 4 – introductory part

Text proposed by the Commission

4. Subject to the agreement of the resolution authorities of the subsidiary and the resolution entity, the requirement may be met ***with a guarantee of*** the resolution entity granted to ***its subsidiary, which fulfils the following conditions:***

Amendment

4. Subject to the agreement of the resolution authorities of the ***material*** subsidiary and the resolution entity, the requirement may be met ***through alternative means. This may include but is not restricted to the use of guarantees from*** the resolution entity granted to ***relevant material subsidiaries.***

Or. en

Amendment 444
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 4 – point a

Text proposed by the Commission

Amendment

(a) the guarantee is provided for at least the equivalent amount as the amount of the requirement for which it substitutes; *deleted*

Or. en

Amendment 445
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 4 – point b

Text proposed by the Commission

Amendment

(b) the guarantee is triggered when the subsidiary is unable to pay its debts or other liabilities as they fall due or a determination has been made in accordance with Article 59(3) in respect of the subsidiary, whichever is the earliest; *deleted*

Or. en

Amendment 446
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 4 – point c

Text proposed by the Commission

Amendment

(c) the guarantee is collateralised through a financial collateral arrangement as defined in point (a) of Article 2(1) of Directive 2002/47/EC for at least 50 per cent of its amount; *deleted*

Amendment 447

Syed Kamall

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 4 – point c

Text proposed by the Commission

(c) the guarantee is collateralised through a financial collateral arrangement as defined in point (a) of Article 2(1) of Directive 2002/47/EC for at least **50 per cent of** its amount;

Amendment

(c) the guarantee is collateralised through a financial collateral arrangement as defined in point (a) of Article 2(1) of Directive 2002/47/EC for at least its **full** amount **following appropriate conservative haircuts**;

Or. en

Justification

Full collateralisation is necessary to ensure a successful resolution process.

Amendment 448

Barbara Kappel

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 4 – point d

Text proposed by the Commission

(d) **the guarantee and financial collateral arrangement are governed by the laws of the Member State where the subsidiary is established unless specified otherwise by the resolution authority of the subsidiary;**

Amendment

deleted

Or. en

Amendment 449

Barbara Kappel

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 4 – point e

Text proposed by the Commission

Amendment

(e) the collateral backing the guarantee fulfils the requirements of Article 197 of Regulation (EU) No 575/2013, which, following appropriately conservative haircuts, is sufficient to fully cover the amount guaranteed;

deleted

Or. en

Amendment 450

Barbara Kappel

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 4 – point f

Text proposed by the Commission

Amendment

(f) the collateral backing the guarantee is unencumbered and in particular is not used as collateral to back any other guarantee;

deleted

Or. en

Amendment 451

Barbara Kappel

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 4 – point g

Text proposed by the Commission

Amendment

(g) the collateral has an effective maturity that fulfils the same maturity condition as that for referred to in Article 72c(1) of Regulation (EU) No 575/2013 , and

deleted

Or. en

**Amendment 452
Barbara Kappel**

**Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 4 – point h**

Text proposed by the Commission

Amendment

(h) there are no legal, regulatory or operational barriers to the transfer of the collateral from the resolution entity to the relevant subsidiary, including when resolution action is taken in respect of the resolution entity.

deleted

Or. en

**Amendment 453
Roberto Gualtieri**

**Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 4 a (new)**

Text proposed by the Commission

Amendment

4 a. Conditions set in points (c) to (h) of paragraph 4 shall not apply to guarantees qualifying as cross-guarantee schemes as defined in Article 4(127) of Regulation (EU) No 575/2013 which have

been established within a group of credit institutions which fulfils the conditions of Article 45g(1).

Or. en

Justification

This amendment aims to better clarify the conditions as regards cooperative groups that already have solidarity mechanisms in place, which make very unlikely that an entity of the group reaches the point of non-viability.

Amendment 454
Luigi Morgano, Andrea Cozzolino

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 5– introductory part

Text proposed by the Commission

5. The resolution authority of a subsidiary that is not a resolution entity may fully waive the application of this Article to that subsidiary where:

Amendment

5. The resolution authority of a **material** subsidiary that is not a resolution entity may fully waive the application of this Article to that subsidiary where:

Or. en

Justification

This to align to the FSB TLAC termsheet, which refers to material subsidiaries.

Amendment 455
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 5 – introductory part

Text proposed by the Commission

5. The resolution authority of a

Amendment

5. The resolution authority of a

subsidiary that is not a resolution entity
may fully waive the application of this
Article to that subsidiary where:

subsidiary that is not a resolution entity
shall fully waive the application of this
Article to that subsidiary where:

Or. en

Amendment 456
Thierry Cornillet

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 5 – point a

Text proposed by the Commission

Amendment

**(a) both the subsidiary and the
resolution entity are subject to
authorisation and supervision by the same
Member State;**

deleted

Or. en

Justification

*There seems to be no reason to limit the ability of a resolution authority to waive a
requirement, if it so wishes, independently of the fact that resolution entity and subsidiary are
not in the same jurisdiction.*

Amendment 457
Anne Sander, Alain Cadec, Alain Lamassoure

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 5 – point a

Text proposed by the Commission

Amendment

**(a) both the subsidiary and the
resolution entity are subject to
authorisation and supervision by the same
Member State;**

deleted

Justification

There seems no reason to limit the ability of a Resolution authority to waive a requirement, if it so wishes, independently of the fact that resolution entity and subsidiary are not in the same jurisdiction.

Amendment 458
Syed Kamall

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 5 – point a

Text proposed by the Commission

(a) both the subsidiary and the resolution entity are subject to authorisation and supervision by the same ***Member State***;

Amendment

(a) both the subsidiary and the resolution entity ***or its parent undertaking*** are subject to authorisation and supervision by the same ***competent authority***;

Or. en

Justification

MREL waivers should be limited to situations where parents and subsidiaries are within the same Member State.

Amendment 459
Roberto Gualtieri

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 5

Text proposed by the Commission

(a) both the subsidiary and the resolution entity are subject to authorisation and supervision by the same ***Member State***;

Amendment

(a) both the subsidiary and the resolution entity are subject to authorisation and supervision by the same ***competent authority***;

Amendment 460
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 5 – point a

Text proposed by the Commission

(a) both the subsidiary and the resolution entity are subject to authorisation and supervision by the same *Member State*;

Amendment

(a) both the subsidiary and the resolution entity are subject to authorisation and supervision by the same *competent authority*;

Or. en

Amendment 461
Luigi Morgano, Andrea Cozzolino

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 5 – point a

Text proposed by the Commission

(a) both the subsidiary and the resolution entity are subject to authorisation *and supervision* by the same *Member State*;

Amendment

(a) both the subsidiary and the resolution entity are subject to authorisation by the same *competent authority*;

Or. en

Justification

While the Banking Union is still incomplete, the EU considers itself as a single jurisdiction according to international standards.

Amendment 462
Pedro Silva Pereira, Jonás Fernández, Doru-Claudian Frunzuliță, Costas Mavrides

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 5 – point a

Text proposed by the Commission

(a) both the subsidiary and the resolution entity are subject to authorisation **and supervision** by the same Member State;

Amendment

(a) both the subsidiary and the resolution entity are subject to authorisation by the same Member State;

Or. en

Justification

For the interest of clarity, it is more adequate to refer only to the Member State where the entities are established, without any reference to supervision, due to the fact that in the Banking Union the supervision of credit institutions established in a participating Member States may not be carried out by the competent authority in said Member State, due to the SSM and the role of the ECB.

Amendment 463
Syed Kamall

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 5 – point b

Text proposed by the Commission

(b) the resolution entity, complies on a sub-consolidated basis with the requirement referred to in Article 45f;

Amendment

(b) the resolution entity **or the highest level group entity, where different from the resolution entity, in the Member State of the subsidiary**, complies on a sub-consolidated basis with the requirement referred to in Article 45f;

Or. en

Amendment 464
Syed Kamall

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 5 – point c

Text proposed by the Commission

(c) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities by the resolution entity to the subsidiary in respect of which a determination has been made in accordance with Article 59(3), in particular when resolution action is taken in respect of the resolution entity;

Amendment

(c) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities by the resolution entity ***or its parent undertaking*** to the subsidiary in respect of which a determination has been made in accordance with Article 59(3), in particular when resolution action is taken in respect of the resolution entity ***or the parent undertaking***;

Or. en

Amendment 465
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 5 – point d

Text proposed by the Commission

(d) ***the resolution entity satisfies the competent authority regarding the prudent management of the subsidiary and has declared, with the consent of the competent authority, that it guarantees the commitments entered into by the subsidiary, or the risks in the subsidiary are of no significance;***

Amendment

deleted

Or. en

Amendment 466
Syed Kamall

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Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 5 – point d

Text proposed by the Commission

(d) the resolution entity satisfies the competent authority regarding the prudent management of the subsidiary and has declared, with the consent of the competent authority, that it guarantees the commitments entered into by the subsidiary, or the risks in the subsidiary are of no significance;

Amendment

(d) the resolution entity **or the parent undertaking** satisfies the competent authority regarding the prudent management of the subsidiary and has declared, with the consent of the competent authority, that it guarantees the commitments entered into by the subsidiary, or the risks in the subsidiary are of no significance;

Or. en

Amendment 467
Syed Kamall

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 5 – point e

Text proposed by the Commission

(e) the risk evaluation, measurement and control procedures of the resolution entity cover the subsidiary;

Amendment

(e) the risk evaluation, measurement and control procedures of the resolution entity **or the parent undertaking** cover the subsidiary;

Or. en

Amendment 468
Pedro Silva Pereira, Pervenche Berès, Luigi Morgano, Andrea Cozzolino, Roberto Gualtieri, Costas Mavrides

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 5 – point f

Text proposed by the Commission

(f) the resolution entity holds more than 50 % of the voting rights attached to shares in the capital of the subsidiary or has the right to appoint or remove a majority of the members of the management body of the subsidiary;

Amendment

(f) the resolution entity holds more than 50 % of the voting rights attached to shares in the capital of the subsidiary or has the right to appoint or remove a majority of the members of the management body of the subsidiary, ***except for credit institutions permanently affiliated to a central body***;

Or. en

Amendment 469
Syed Kamall

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 5 – point f

Text proposed by the Commission

(f) the resolution entity holds more than 50 % of the voting rights attached to shares in the capital of the subsidiary or has the right to appoint or remove a majority of the members of the management body of the subsidiary;

Amendment

(f) the resolution entity ***or the parent undertaking*** holds more than 50 % of the voting rights attached to shares in the capital of the subsidiary or has the right to appoint or remove a majority of the members of the management body of the subsidiary;

Or. en

Amendment 470
Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 5 – point f

Text proposed by the Commission

(f) the resolution entity holds more

Amendment

(f) the resolution entity holds more

than 50 % of the voting rights attached to shares in the capital of the subsidiary **or** has the right to appoint or remove a majority of the members of the management body of the subsidiary;

than 50 % of the voting rights attached to shares in the capital of the subsidiary **and** has the right to appoint or remove a majority of the members of the management body of the subsidiary;

Or. en

Amendment 471
Thierry Cornillet

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 5 – point g

Text proposed by the Commission

Amendment

(g) the competent authority of the subsidiary has fully waived the application of individual capital requirements to the subsidiary under Article 7(1) of Regulation (EU) No 575/2013.

deleted

Or. en

Justification

There seems no reason to limit the ability of a Resolution authority to waive a requirement, if it so wishes, independently of the fact that resolution entity and subsidiary are not in the same jurisdiction.

Amendment 472
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 5 – point g

Text proposed by the Commission

Amendment

(g) the competent authority of the

deleted

subsidiary has fully waived the application of individual capital requirements to the subsidiary under Article 7(1) of Regulation (EU) No 575/2013.

Or. en

Amendment 473
Anne Sander, Alain Cadec, Alain Lamassoure

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 5 – point g

Text proposed by the Commission

Amendment

(g) *the competent authority of the subsidiary has fully waived the application of individual capital requirements to the subsidiary under Article 7(1) of Regulation (EU) No 575/2013.* **deleted**

Or. en

Justification

Condition (g) is not present in the SRMR proposal, and should be removed from the BRRD proposal

Amendment 474
Roberto Gualtieri

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45 – paragraph 5 – point g

Text proposed by the Commission

Amendment

(g) *the competent authority of the subsidiary has fully waived the* **deleted**

application of individual capital requirements to the subsidiary under Article 7(1) of Regulation (EU) No 575/2013.

Or. en

Amendment 475
Luigi Morgano, Andrea Cozzolino

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 5 – point g

Text proposed by the Commission

Amendment

(g) the competent authority of the subsidiary has fully waived the application of individual capital requirements to the subsidiary under Article 7(1) of Regulation (EU) No 575/2013. **deleted**

Or. en

Justification

While the Banking Union is still incomplete, the EU considers itself as a single jurisdiction according to international standards. The competent authority is the same in this context.

Amendment 476
Pedro Silva Pereira, Pervenche Berès, Andrea Cozzolino, Roberto Gualtieri, Doru-Claudian Frunzulică, Costas Mavrides

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 5 – point g

Text proposed by the Commission

Amendment

(g) the competent authority of the subsidiary has fully waived the application **(g) the competent authority of the subsidiary has fully waived the application**

of individual capital requirements to the subsidiary under Article 7(1) of Regulation (EU) No 575/2013.

of individual capital requirements to the subsidiary under Article 7(1) *or Article 10* of Regulation (EU) No 575/2013.

Or. en

Amendment 477
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. By way of derogation from paragraph 5, the resolution authority may not fully waive the application of this Article for a subsidiary of a resolution entity (or EU Parent Undertaking in the case of non-EU GSIIIs) in exceptional circumstances where such a requirement is necessary for the resolution strategy. The resolution authority's decision shall contain the reasons for that decision.

Or. en

Amendment 478
Anne Sander, Alain Lamassoure, Alain Cadec

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. The resolution authority of an entity of the resolution group that is not a resolution entity shall fully waive the application of paragraphs 1 to 5 to that entity where:

(a) the resolution entity of the resolution group is the central body of a network or a cooperative group;

(b) the entity is a credit institution permanently affiliated to this central body.

Or. en

Justification

Entities that are within the scope of a cooperative mutual solidarity system that protects the solvency and liquidity of the affiliated cooperative banks and institutions should not be targeted by internal MREL.

Amendment 479

Luigi Morgano, Andrea Cozzolino

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. By way of derogation from paragraphs 1 to 5, a material subsidiary, or an EU parent undertaking in case of non-EU GSIIIs, may not benefit from a full waiver from the application of this Article, where the relevant resolution authority deems that such a requirement is necessary for the resolution strategy or because of exceptional circumstances. The decision of the resolution authority shall contain the reasons for that decision.

Or. en

Justification

The requirements should be waived when the subsidiary and resolution authority are subject to authorisation by the same competent authority. Nonetheless, a derogation should be foreseen where the resolution authority deems necessary for the resolution strategy.

Amendment 480
Thierry Cornillet

Proposal for a directive
Article 1 – paragraph 23 (new)
Directive 2014/59/EU
Article 45g – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. The resolution authority of an entity of the resolution group that is not a resolution entity shall fully waive the application of paragraphs 1 to 5 to that entity where:

(a) the resolution entity of the resolution group is the central body of a network or a cooperative group;

(b) the entity is a credit institution permanently affiliated to this central body.

Or. en

Justification

The aim is to recognise the structure of certain cooperative groups. The diversity of the EU banking sector should be preserved and recognised.

Amendment 481
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g– paragraph 5 b (new)

Text proposed by the Commission

Amendment

5b. The resolution authority shall, in accordance with national law, waive the application of Article 45f or of paragraphs 1 to 5 of this Article to one or more credit institutions permanently

affiliated to a central body, where all the following conditions are met:

(a) the credit institutions and the central body are subject to supervision by the same competent authority and are established in the same Member State;

(b) the commitments of the central body and affiliated institutions are joint and several liabilities or the commitments of its affiliated institutions are entirely guaranteed by the central body;

(c) the minimum requirement for own funds and eligible liabilities, solvency and liquidity of the central body and of all the affiliated institutions are monitored as a whole on the basis of consolidated accounts of these institutions;

(d) the management of the central body is empowered to issue instructions to the management of the affiliated institutions; and,

(e) the relevant resolution group complies with the requirement referred to in Article 45f(3).

Or. en

Amendment 482
Barbara Kappel

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g – paragraph 5 c (new)

Text proposed by the Commission

Amendment

5c. The EBA shall, by 1 July 2020, publish a report evaluating the implementation of internal MREL requirements. The report shall include, but not be limited to, an assessment of the impacts of internal MREL requirements on firms, and recommendations to amend the internal MREL framework in light of

progress in resolution planning and cross-border cooperation; and to reflect developments in the Banking Union, or at the international level. This report shall be submitted to the Commission by the deadline provided. Thereafter the Commission shall review whether there is a need to amend any relevant legislation in light of the EBA's findings and report thereon to the European Parliament and to the Council. If appropriate, that report shall be accompanied by a legislative proposal.

Or. en

Amendment 483

Anne Sander, Alain Cadec, Alain Lamassoure

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45g a (new)

Text proposed by the Commission

Amendment

Article 45g a

Waiver for credit institutions permanently affiliated to a central body

The resolution authority shall, in accordance with national law, waive the application of Articles 45f or 45g to one or more credit institutions permanently affiliated to a central body, where all the following conditions are met:

(a) the credit institutions and the central body are subject to supervision by the same competent authority and are established in the same Member State and are part of the same resolution group;

(b) the competent authority of the credit institution has fully waived the application of individual capital requirements of the credit institution pursuant to Article 10 of Regulation (EU)

No 575/2013;

(c) the resolution group complies with the requirement referred to in Article 45f(3);

(d) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities between the central body and the affiliated credit institutions in case of resolution.

Or. en

Justification

It proposes to waive internal MREL for institutions affiliated to a central body to avoid double counting of internal MREL and internal refinancing schemes such as guarantees or internal solidarity mechanisms.

Amendment 484 **Sirpa Pietikäinen**

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45g a (new)

Text proposed by the Commission

Amendment

Article 45g a

Waiver for credit institutions permanently affiliated to a central body

The resolution authority may, in accordance with national law, waive the application of Articles 45f or 45g to one or more credit institutions permanently affiliated to a central body, where all the following conditions are met:

(a) the credit institutions and the central body are subject to supervision by the same competent authority and are established in the same Member State and are part of the same resolution group;

(b) the commitments of the central body and affiliated institutions are joint and several liabilities or the commitments of its affiliated institutions are entirely guaranteed by the central body;

(c) the minimum requirement for own funds and eligible liabilities, solvency and liquidity of the central body and of all the affiliated institutions are monitored as a whole on the basis of consolidated accounts of these institutions;

(d) the management of the central body is empowered to issue instructions to the management of the affiliated institutions; and,

(e) the relevant resolution group complies with the requirement referred to in Article 45f(3);

(f) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities between the central body and the affiliated credit institutions in case of resolution.

Or. en

Amendment 485

Dariusz Rosati, Tom Vandenkendelaere, Danuta Maria Hübner

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45h – paragraph 5 – subparagraph 4

Text proposed by the Commission

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

Amendment

The matter shall not be referred to EBA after the end of the four-month period or after a joint decision has been reached. ***The group level resolution authority shall not refer the matter to EBA for binding mediation where the level set by the resolution authority of the subsidiary is within two percentage points of the***

consolidated level set under paragraph 4 of this Article under both measures set out in Article 45(2).

Or. en

Amendment 486
Markus Ferber, Werner Langen

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45i – paragraph 1 – introductory part

Text proposed by the Commission

1. Entities referred to in Article 1(1) shall report to their competent and resolution authorities on the following on at least a yearly basis:

Amendment

1. Entities referred to in Article 1(1) ***with the exception of entities for which the resolution plan provides that no resolution action would be taken pursuant to Article 32, including if the entity shall be wound up under normal insolvency proceedings***, shall report to their competent and resolution authorities on the following on at least a yearly basis:

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 requirement or corresponding reporting requirement.

Amendment 487
Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45i – paragraph 1 – introductory part

Text proposed by the Commission

1. Entities referred to in Article 1(1) shall report to their competent and resolution authorities on the following **on** at least a yearly basis:

Amendment

1. Entities referred to in Article 1(1) shall report to their competent and resolution authorities on the following **upon request and** at least **on** a yearly basis:

Or. en

Amendment 488
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45i – paragraph 1 – introductory part

Text proposed by the Commission

1. Entities referred to in Article 1(1) shall report to their competent and resolution authorities on the following on at least a **yearly** basis:

Amendment

1. Entities referred to in Article 1(1) shall report to their competent and resolution authorities on the following on at least a **quarterly** basis:

Or. en

Amendment 489
Ernest Urtasun, Sven Giegold, Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45i – paragraph 1 – point a

Text proposed by the Commission

(a) the levels of available items that meet the conditions of Article 45b or Article 45g(3) and the amounts of own funds and eligible liabilities expressed in accordance with Article 45(2) following the application of deductions in accordance

Amendment

(a) the levels of available items that meet the conditions of Article 45b or Article 45g(3) and the amounts of own funds and eligible liabilities expressed in accordance with Article 45(2) following the application of deductions in accordance

with Articles 72e to 72j of Regulation (EU)
No 575/2013;

with Articles 72e to 72j of Regulation (EU)
No 575/2013 *as well as the levels of
liabilities that are not excluded from the
scope of the Article 44 pursuant to
paragraphs 2 or 3 of this Article;*

Or. en

Amendment 490
Esther de Lange

Proposal for a directive
Article 1 – paragraph 23 (new)
Directive 2014/59/EU
Article 45i – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

*(b a) the requirement referred to in
Article 45(1) after determination by the
resolution authority in accordance with
Article 45c.*

Or. en

Amendment 491
Burkhard Balz

Proposal for a directive
Article 1 – paragraph 23 (new)
Directive 2014/59/EU
Article 45i – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

*The requirement referred to in the first
subparagraph shall not apply to entities
referred to in the second subparagraph of
Article 45c(2).*

Or. en

Amendment 492

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45i – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Competent and resolution authorities may request from entities referred to in Article 1(1) data referred to in points (a) and (b) of this paragraph at any time on an ad-hoc basis.

Or. en

Amendment 493

Markus Ferber, Werner Langen

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45i – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

2. Entities referred to in Article 1(1) shall make the following information publicly available on at least a yearly basis:

2. Entities referred to in Article 1(1), ***with the exception of entities for which the resolution plan provides that no resolution action would be taken pursuant to Article 32, including if the entity shall be wound up under normal insolvency proceedings***, shall make the following information publicly available on at least a yearly basis:

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 and corresponding disclosure

requirements.

Amendment 494

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45i – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The requirement referred to in the first subparagraph shall not apply to the guidance for the minimum requirement of own funds and eligible liabilities referred to in Article 45e.

Or. en

Justification

The guidance should not be publicly disclosed, so that it can fulfil its role as intended, keeping more flexibility.

Amendment 495

Burkhard Balz

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45i – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The requirement referred to in the first subparagraph of this paragraph shall not apply to entities referred to in the second subparagraph of Article 45c(2).

Or. en

Amendment 496

Othmar Karas

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45i – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Paragraphs 1 and 2 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 institutions, which can be liquidated under normal insolvency proceedings according to the resolution authority, shall not be in the scope of MREL supervisory reporting and public disclosure requirements.

Amendment 497

Ernest Urtasun, Sven Giegold, Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45i – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. When an institution meets a leverage or at least 3,3 times the requirement in accordance with Article 92(1)(d) of Regulation (EU) No 575/2013 it shall be exempted from the requirements of this Article.

Or. en

Amendment 498

Pedro Silva Pereira, Jonás Fernández, Luigi Morgano, Andrea Cozzolino, Roberto Gualtieri, Costas Mavrides

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45i – paragraph 4

Text proposed by the Commission

4. Public disclosure requirements shall apply **at the date where** the requirement referred to in Article 45(1) **is fully complied with for the first time**.

Amendment

4. **For institutions to which resolution tools or the power to write down and convert relevant capital instruments and eligible liabilities have been applied**, public disclosure requirements shall apply **after the deadline referred to in point (o) of Article 10(7) to comply with** the requirement referred to in Article 45(1).

Or. en

Justification

Disclosing the MREL requirement when each bank complies with it for the first time can lead to differentiations between institutions: banks disclosing their MREL requirement to the markets at different moments due to having different deadlines to comply will be difficult for the markets to interpret, likely leading to erroneous assumptions on banks' capacities to comply with the requirement and on their financial situations. This could be problematic for banks that were given more time to comply with MREL and could end up making the possibility of setting different timelines for MREL compliance inoperational. Therefore, Article 45i(4) should be limited to institutions which have been resolved or to which write down and conversion powers have been applied, determining that the deadline for disclosure will follow the deadline for compliance set by the resolution authority.

Amendment 499

Martin Schirdewan, Matt Carthy, Miguel Viegas, Marisa Matias

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45k – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. *An institution that meets the minimum requirement for own funds and eligible liabilities shall not make a distribution in connection with Common Equity Tier 1 capital or make payments on Additional Tier 1 instruments to an extent that would decrease its Common Equity Tier 1 capital to a level where the minimum requirement for own funds and eligible liabilities is no longer met.*

Or. en

Amendment 500

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45k – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Any breach of the minimum requirement for own funds and eligible liabilities by an entity shall be ***addressed*** by the relevant authorities on the basis of at least one of the following:

1. Any breach of the minimum requirement for own funds and eligible liabilities by an entity shall be ***subject to the restrictions referred to in Article 141 of Directive 2013/36/EU.***

In addition to the first subparagraph, the relevant authorities shall address any breach of the above requirement within a specified timeframe that cannot extend three months, on the basis of at least one of the following:

Or. en

Amendment 501

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45k – paragraph 1– point c

Text proposed by the Commission

Amendment

(c) early intervention measures in accordance with Article 27;

(c) early intervention measures in accordance with Article 27 **to 29**;

Or. en

Amendment 502

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45k – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Any breach of the guidance referred to in Article 45e shall be addressed by the relevant authorities on the basis of at least one of the powers referred to in point (a), (b) and (d) of paragraph 1.

Or. en

Justification

Breaches of the guidance should be dealt with by resolution authorities resorting to their existing powers, namely the powers to remove impediments to resolution, and not through the conversion of the guidance into MREL. Such conversion would change the nature of the guidance and imply losing some flexibility.

Amendment 503

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

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45k – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The resolution authorities shall monitor on a monthly basis the fulfilment of the minimum requirement for own funds and eligible liabilities and shall inform the competent authority of any breaches or other relevant events that may affect the fulfilment of the minimum requirement.

Or. en

Amendment 504
Sven Giegold, Philippe Lamberts
on behalf of the Verts/ALE Group
Ernest Urtasun

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45k – paragraph 1 b (new)

Text proposed by the Commission

Amendment

Failure to meet the requirement set by Articles 45c to 45f by an entity shall be presumed to be a significant impediment to resolvability for the purpose of Article 17 and 18.

Or. en

Amendment 505
Danuta Maria Hübner

Proposal for a directive
Article 1 – paragraph 23
Directive 2014/59/EU
Article 45l – paragraph 1 – point a

Text proposed by the Commission

(a) how the requirement for own funds and *permissible* liabilities has been implemented at national level, and in particular whether there have been divergences in the levels set for comparable entities across Member States;

Amendment

(a) how the requirement for own funds and *eligible* liabilities has been implemented at national level, and in particular whether there have been divergences in the levels set for comparable entities across Member States;

Or. en

Amendment 506

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

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45l a (new)

Text proposed by the Commission

Amendment

Article 45l a

Transitional period

Resolution authorities, after consulting the competent authorities, shall provide for a transitional period for entities to comply with the MREL requirements defined in Articles 45f and 45g.

The transitional period referred to in paragraph 1 shall end on 1 January 2021.

Or. en

Amendment 507

Pedro Silva Pereira, Jonás Fernández, Luigi Morgano, Andrea Cozzolino, Roberto Gualtieri, Costas Mavrides

Proposal for a directive

Article 1 – paragraph 23

Directive 2014/59/EU

Article 45l a (new)

Article 45l a

**Transitional and post-resolution
arrangements**

- 1. Resolution authorities, after consulting the competent authorities, shall determine an appropriate transitional period for each institution or entity referred to in points (b), (c) and (d) of Article 1(1) to comply with the MREL requirements in Articles 45f or 45g. The deadline to comply with the requirements in Articles 45f or 45g shall not be earlier than 1 January 2024.**
- 2. When setting the transitional periods, resolution authorities shall take into account, among other relevant circumstances:**
 - (i) any relevant characteristics of the institutions, particularly the prevalence of deposits and the absence of debt instruments in the funding model;**
 - (ii) the limited access to the capital markets for eligible liabilities;**
 - (iii) the reliance on Common Equity Tier 1 to meet the requirement referred to in Article 45f;**
 - (iv) the overall conditions of the relevant banking system;**
 - (v) any possible impact of the requirements in Articles 45f or 45g on financial stability and any risk of contagion to the financial system.**

Or. en

Justification

The BRRD must include clear provisions on the timeline for compliance with MREL. In the same way the TLAC term sheet and the CRR provide for a transitional period for meeting TLAC/MREL Pillar 1, so should the BRRD provide for a minimum transitional period for meeting MREL Pillar 2.

