EUROPEAN PARLIAMENT 2009 - 2014

Plenary sitting

A7-0478/2013

20.12.2013

***I
REPORT

on the proposal for a regulation of the European Parliament and of the Council establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Bank Resolution Fund and amending Regulation (EU) No 1093/2010 of the European Parliament and of the Council (COM(2013)0520 – C7-0223/2013 – 2013/0253(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Elisa Ferreira

Symbols for procedures

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

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

Amendments to a draft act

Amendments by Parliament set out in two columns

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

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

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▌ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.
By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

CONTENTS

Page

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION 5

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS 83

OPINION OF THE COMMITTEE ON CONSTITUTIONAL AFFAIRS 94

PROCEDURE 122

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Bank Resolution Fund and amending Regulation (EU) No 1093/2010 of the European Parliament and of the Council (COM(2013)0520 – C7-0223/2013 – 2013/0253(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2013)0520),

– having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0223/2013),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Swedish Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,

– having regard to the opinion of the European Central Bank of 6 November 2013[1],

– having regard to the opinion of the European Economic and Social Committee of 17 October 2013[2],

– having regard to Rule 55 of its Rules of Procedure,

– having regard to the report of the Committee on Economic and Monetary Affairs and the opinions of the Committee on Legal Affairs and the Committee on Constitutional Affairs (A7-0478/2013),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

---

[1] OJ C ....
[2] OJ C ....

Amendment 1

AMENDMENTS BY THE EUROPEAN PARLIAMENT*

to the Commission proposal

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Bank Resolution Fund and amending Regulation (EU) No 1093/2010 of the European Parliament and of the Council

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Central Bank[1],

Having regard to the opinion of the European Economic and Social Committee[2],

Acting in accordance with the ordinary legislative procedure[3],

Whereas:

(1) Having a better integrated internal market for banking services is essential in order to foster economic recovery in the Union. However, the current financial and economic crisis has shown that the functioning of the internal market in this area is under threat and that there is an increasing risk of financial fragmentation. Interbank markets have become less liquid and cross-border bank activities are decreasing due to fear of contagion, lack of confidence in other national banking systems and in the ability of Member States to support banks. ***This is a real source of concern in an internal market in which banking institutions have the use of a European passport and***

---

* Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol ▌.

1 OJ C ....

2 OJ C ....

3 Position of the European Parliament of ....

where the majority of those institutions operate in several Member States.

(2) Divergences in national resolution rules between different Member States and corresponding administrative practices and the lack of a unified decision making process at Union level for the resolution of cross-border banks contribute to this lack of confidence and market instability, as they do not ensure certainty and predictability as to the possible outcome of a bank failure. Resolution decisions taken at the national level only ***and under non-harmonised legal frameworks*** may lead to distortions of competition and ultimately to the undermining of the internal market.

(3) In particular, the different practices of Member States in the treatment of creditors of banks in resolution and in the bail-out of failing banks have an impact on the perceived credit risk, financial soundness and solvency of their banks. This undermines public confidence in the banking sector and obstructs the exercise of the freedom of establishment and the free provision of services within the internal market because financing costs would be lower without such differences in practices of Member States.

(4) Divergences in national resolution rules between different Member States and corresponding administrative practices may lead banks and customers to have higher borrowing costs only because of their place of establishment and irrespective of their real creditworthiness. In addition, customers of banks in some Member States face higher borrowing rates than customers of banks in others irrespective of their own creditworthiness.

(4a) The inability of certain Member States to have well-functioning institutions in the field of bank resolution has increased the damage of the banking crisis over the last years.

(4b) National authorities may have incentives to bail out the banks with public money before embarking on a resolution process, and so the creation of a single European resolution mechanism (SRM) is fundamental to create a level playing field and a more neutral approach to decide if a bank should be resolved.

(5) As long as resolution rules, practices and approaches to burden-sharing remain national and the financial resources needed for funding resolution are raised and spent at national level, the internal market will remain fragmented. Moreover, national supervisors have strong incentives to minimise the potential impact of bank crises on their national economies by adopting unilateral action to ring-fence banking operations, for instance by limiting intra-group transfers and lending, or by imposing higher liquidity and capital requirements on subsidiaries in their jurisdictions of potentially failing parent undertakings***. National and contentious home-host issues substantially reduce efficiency in cross-border resolution processes***. This restricts the cross-border activities of banks and thus creates obstacles to the exercise of fundamental freedoms and distorts competition in the internal market.

(6) Directive [ ] of the European Parliament and of the Council[1] ***is a decisive step towards harmonisation of*** national bank resolution rules and has provided for cooperation among resolution authorities when dealing with the failure of cross-border banks. However, the harmonisation provided by the Directive [ ] is not ***absolute*** and the decision making process is not centralised. Directive [ ] essentially provides for common resolution tools and powers available for the national authorities of every Member State but leaves ***some level of*** discretion to national authorities in the application of the tools and in the use of national financing arrangements in support of resolution procedures. ***Despite attributing regulatory and mediation tasks to the European Supervisory Authority (European Banking Authority) ('EBA'), established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council[2],*** Directive [ ] does not ***completely*** avoid the taking of separate and potentially inconsistent decisions by Member States regarding the resolution of cross-border groups which may affect the overall costs of resolution. Moreover, as it provides for national financing arrangements, it does not sufficiently reduce the dependence of banks on the support from national budgets and does not ***completely*** prevent different approaches by Member States to the use of the financing arrangements.

(7) Ensuring effective uniform resolution decisions for failing banks within the Union, including on the use of funding raised at Union level, is essential for the completion of the internal market in financial services. Within the internal market, the failure of banks in one Member State may affect the stability of the financial markets of the whole Union. Ensuring effective and uniform resolution rules and equal conditions of resolution financing across Member States is in the best interest not only of the Member States in which banks operate, but also of all Member States in general as a means to preserve competition and improve the functioning of the internal market. Banking systems in the internal market are highly interconnected, bank groups are international and banks have a large percentage of foreign assets. In the absence of a single resolution mechanism, bank crises in Member States participating in the Single Supervisory Mechanism (SSM) would have stronger negative systemic impact also in non-participating Member States. The establishment of *SRM* will increase stability of the banks of the participating Member States and prevent the spill-over of crises into non-participating Member States and will thus facilitate the functioning of the whole of the internal market. ***The mechanisms for cooperation regarding institutions established in both participating and non-participating Member States should be clear, and it is important to ensure that non-participating Member States are not***

---

[1] ***Directive 2014/.../EU of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directives 77/91/EEC and 82/891/EC, Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC and 2011/35/EC and Regulation (EU) No 1093/2010 (OJ L ...) .***

[2] ***Regulation (EU) No 1093/2010 of the European Parliament and of the Council 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).***

discriminated against.

(7a) In order to restore trust and credibility in the banking sector, the European Central Bank (ECB) will conduct a comprehensive balance sheet assessment of all banks supervised directly. For those banks in the participating Member States that are not subject to direct supervision by the ECB, the competent authorities should, in cooperation with the ECB, perform an equivalent balance sheet assessment that is proportionate to the size and business model of the bank. This would equally contribute to restore credibility and ensure that all banks will be subject to review.

(7b) In order to ensure a level playing field within the internal market as a whole, every framework for banking recovery and resolution within the Union should be governed by Directive [BRRD] and by any delegated acts adopted pursuant thereto. In performing their tasks under this Regulation, the Commission and the Board should act in accordance with the requirements of that Directive and of those delegated acts. That Directive should govern recovery and resolution planning, early intervention, conditions for and principles of resolution as well as the use of resolution tools by the SRM. The main aim of this Regulation is to cover those aspects required to ensure that the SRM implements that Directive and that the appropriate funding required is at its disposal. The Commission and the Board should also be subject to all other relevant Union law, including binding regulatory and implementing technical standards developed by EBA and adopted by the Commission in accordance with Articles 10 to 15 of Regulation (EU) No 1093/2010. The Board should be subject to the guidelines and recommendations adopted by EBA in relation to Directive [BRRD] in accordance with Article 16 of that Regulation and, where applicable, to any decisions of EBA in the course of binding mediation pursuant to Article 19(3) of Regulation (EU) No 1093/2010.

(8) Following the establishment of the SSM by Council Regulation (EU) No *1024/2013* [1] where banks in the participating Member States are centrally supervised by the *ECB*, there is a misalignment between the Union supervision of such banks and the national treatment of those banks in the resolution proceedings pursuant to Directive [*BRRD*].

(8a) Regulation (EU) No 1024/2013 allows for the possibility of a non-euro area opt-in Member State to terminate its close cooperation with the SSM. Thus a situation may arise in which a Member State decides to leave the SSM but has on its territory an institution benefitting from resolution financing from the SRM fund. This Regulation may, when revised, set out the provisions for addressing such a situation.

(9) Whilst banks in Member States remaining outside the SSM benefit at national level from supervision, resolution and financial backstop arrangements which are aligned, banks in Member States participating in the SSM are subject to Union arrangements for supervision and national arrangements for resolution and financial backstops. This misalignment creates a competitive disadvantage for the banks in the Member States

---

[1] Council Regulation (EU) No *1023/2013 of 15 October 2013* conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions *(OJ L 287, 29.10.2013, p. 63).*

participating in the SSM compared to those in the other Member States. Because supervision and resolution are at two different levels within the SSM, intervention and resolution in banks in the Member States participating in the SSM would not be as rapid, consistent and effective as in banks in the Member States outside of the SSM. This has negative repercussions on the funding costs for these banks and creates a competitive disadvantage with detrimental effects for the Member States in which those banks operate and for the overall functioning of the internal market. Therefore, a centralised resolution mechanism for all banks operating in the Member States participating in the SSM is essential to guarantee a level playing field

(10) The sharing of resolution responsibilities between the national and the Union levels should be aligned to the sharing of supervision responsibilities between those levels. As long as supervision remains national in a Member State, that Member State should remain responsible for the financial consequences of a bank failure. The single resolution mechanism should therefore only extend to banks and financial institutions established in Member States participating in the SSM and subject to the supervision of the ECB within the framework of the SSM. Banks established in the Member States not participating in the SSM should not be subject to the single resolution mechanism. If such Member States became subject to the single resolution mechanism, this would create the wrong incentives for them. In particular, supervisors in these Member States may become more lenient towards banks in their jurisdictions as they would not have to bear the full financial risk of their failures. Therefore, in order to ensure parallelism with the SSM, the single resolution mechanism should apply to Member States participating in the SSM. As Member States join the SSM, they should also automatically become subject to the single resolution mechanism. Ultimately, the single resolution mechanism is expected to extend to the entire internal market.

(11) A single bank resolution fund (hereinafter referred to as the 'Fund') is an essential element without which a single resolution mechanism could not work properly. Different systems of national funding would distort the application of ***single*** bank resolution rules in the internal market. ***If the funding of resolution were to remain national, the link between sovereigns and the banking sector would not be broken, and investors would continue to establish borrowing conditions according to the place of establishment of the banks rather than to their creditworthiness. The current severe fragmentation of the financial market would also remain.*** The Fund should help to ensure a uniform administrative practice in the financing of resolution and to avoid the creation of obstacles for the exercise of fundamental freedoms or the distortion of competition in the internal market due to divergent national practices. The Fund should be financed directly by banks and should be pooled at Union level so that the resolution resources can be objectively allocated across Member States thus increasing financial stability and limiting the link between the perceived fiscal position of individual Member States and the funding costs of banks and undertakings operating in those Member States. ***To further break that link, there should be a prohibition against the decisions of the SRM impinging directly on the fiscal responsibilities of the Member States.***

(12) It is therefore necessary to adopt measures to create a single resolution mechanism for all Member States participating in the single supervisory mechanism in order to

facilitate the proper and stable functioning of the internal market.

(13) A centralised application of the bank resolution rules set out in Directive [*BRRD*] by a single Union resolution authority in the participating Member States can only be ensured where the rules governing the establishment and functioning of a single resolution mechanism are directly applicable in the Member States to avoid divergent interpretations across the Member States. ***In order to ensure the harmonised application of the resolution tools, the Board, together with the Commission, should adopt a resolution handbook setting out clear and detailed guidance for the use of the resolution tools set out in Directive [BRRD].*** This should bring benefits to the internal market as a whole because it will contribute to ensuring fair competition and to preventing obstacles to the free exercise of fundamental freedoms not only in the participating Member States but in the whole internal market.

(14) Mirroring the scope of the *Regulation (EU) No 1024/2013*, a single resolution mechanism should cover all credit institutions established in the participating Member States. However, within the framework of a single resolution mechanism, it should be possible to resolve directly any credit institution of a participating Member State in order to avoid asymmetries within the internal market in the treatment of failing institutions and creditors during a resolution process. To the extent that parent undertakings, investment firms and financial institutions are included in the consolidated supervision by the ECB, they should be included in the scope of the single resolution mechanism. Although the ECB will not supervise those institutions on a solo basis, it will be the only supervisor that will have a global perception of the risk to which a group, and indirectly the individual members, is exposed to. To exclude entities which form part of the consolidated supervision within the scope of the ECB from the scope of the single resolution mechanism would make it impossible to plan for the resolution of banking groups and to adopt a group resolution strategy, and would make any resolution decisions much less effective.

(15) Within the single resolution mechanism, decisions should be taken at the most appropriate level. ***The Board, and in particular its executive session, should be empowered to prepare and take all decisions concerning the resolution procedure to the fullest extent possible, while respecting the role of the Commission as established in the TFEU, in particular in Articles 114 and 107 thereof.***

(15a) The Commission should, when performing its tasks under this Regulation, act separately from its other tasks, and strictly in accordance with the objectives and principles set out in this Regulation and in Directive [BRRD]. The separation of tasks should be guaranteed through organisational separation.

(16) The ECB, as the supervisor within the SSM, is the best placed to assess whether a credit institution is failing or likely to fail and whether there is no reasonable prospect that any alternative private sector or supervisory action would prevent its failure within a reasonable timeframe. The Board, ***in its executive session,*** upon notification of the ECB ***and assessment of the resolution conditions***, should provide a ***draft decision*** to the Commission ▌to place an institution under resolution***. This draft decision*** should ***include a recommendation for*** a clear and detailed ▌framework ***of***

the resolution ***tools and, where applicable, of the use of the Fund***. Within this framework, the Board***, in its executive session,*** should decide on a resolution scheme and instruct the national resolution authorities on the resolution tools and powers to be executed at national level. ***Without prejudice to the effectiveness of the Board's decision-making procedures, the members of the Board should strive for consensus when takings decisions.***

(17) The Board should be empowered to take decisions, in particular, in connection with resolution planning, the assessment of resolvability, the removal of impediments to resolvability and the preparation of resolution actions. National resolution authorities should assist the Board in resolution planning and in the preparation of resolution decisions. In addition, as the exercise of resolution powers involves the application of national law, national resolution authorities should be responsible for the implementation of resolution decisions.

(18) It is instrumental for the good functioning of the internal market that the same rules apply to all resolution measures, regardless of whether they are taken by national resolution authorities under Directive [*BRRD*] or within the framework of the single resolution mechanism The Commission will assess those measures under Article 107 of the TFEU. Where the use of resolution financing arrangements does not involve State aid pursuant to Article 107 (1) of the TFEU, the Commission should, in order to ensure a level playing field within the internal market, assess those measures by analogy to Art 107 of the TFEU. If a notification under Article 108 of the TFEU is not necessary as no state aid pursuant to Article 107 of the TFEU is entailed in the proposed use of the Fund by the Board, ***as envisaged in its executive session,*** in order to ensure the integrity of the internal market between participating and non-participating Member States, the Commission should apply the relevant State aid rules under Article 107 of the TFEU by way of analogy when assessing the proposed use of the Fund. The Board should not decide on a resolution scheme until the Commission has ensured, by way of analogy with State aid rules, that the use of the Fund follows the same rules as interventions by national financing arrangements.

(19) In order to ensure a swift and effective decision making process in resolution, the Board should be a specific Union agency with a specific structure, corresponding to its specific tasks, and which departs from the model of all other agencies of the Union. Its composition should ensure that due account is taken of all relevant interests at stake in resolution procedures. The Board should operate in executive and plenary sessions. In its executive session, it should be composed of an Executive Director, a Deputy Executive Director, and ***members appointed by*** the Commission and the ECB***, which shall act independently and objectively in the interest of the Union as a whole***. Considering the missions of the Board, ***the*** Executive Director and ***the*** Deputy Executive Director should be appointed ***on the basis of merit, skills, knowledge of banking and financial matters, and experience relevant to financial supervision and regulation. The Executive Director and the Deputy Director should be chosen*** on the ***basis of an open selection procedure of which the European Parliament and the Council should be kept duly informed. The selection procedure should respect the principle of gender balance. The Commission should provide the European Parliament's competent committee with the shortlist of candidates for the positions***

of Executive Director and Deputy Executive Director. The Commission should ***submit a proposal for the appointment of the Executive Director and the Deputy Executive Director to the European Parliament for approval. Following the European Parliament's approval of that proposal, the Council should adopt an implementing decision to appoint the Executive Director and the Deputy Executive Director***. When deliberating on the resolution of a bank or group established within a single participating Member State, the executive session of the Board should also convene and involve in the decision-making process the member appointed by the Member State concerned representing its national resolution authority. When deliberating on a cross-border group, the members appointed by the home and all host Member States concerned representing the relevant national resolution authorities should also be convened and involved in the decision-making process of the executive session of the Board. However, home authorities and host authorities should have a balanced influence on the decision, so host authorities should have jointly one single vote. ***In the decision making process, due consideration should be given to the relative size and importance of the subsidiary, branch or entity covered by consolidated supervision in the economies of the different Member States and in the group as a whole.***

(19a) Since the participants on the decision-making process of the Board in its executive sessions would change depending on the Member State(s) where the relevant institution or group operates, the permanent participants - the Executive Director, the Deputy Executive Director and the members appointed by the Commission and by the ECB - should ensure that the decisions throughout the different formations of the executive sessions of the Board are coherent, appropriate and proportionate.

(19b) EBA should attend the meetings of the Board as an observer. Other observers, such as a representative of the European Stability Mechanism (ESM), may, whenever appropriate, also be invited to attend the meetings of the Board. The observers should be subject to the same professional secrecy requirements as the members and the staff of the Board and staff exchanged with or seconded by participating Member States carrying out resolution duties.

(19c) The Board should be able to establish internal resolution teams composed of its own staff and staff of the national resolution authorities of the participating Member States, that should be headed by Coordinators appointed from the Board's senior staff, who might be invited as observers to participate in the executive sessions of the Board, but would not be attributed any voting rights.

(19d) The principle of sincere cooperation between the Union's institutions is enshrined in the Treaties, in particular in Article 13(2) of the Treaty on European Union.

(20) In the light of the Board's ***and of the Commission's*** missions ***under this Regulation*** and the resolution objectives which include the protection of public funds, the functioning of the ***SRM*** should be financed from contributions paid by the institutions in the participating Member States. ***Under no circumstances should the budgetary liability of the Member States or the Union be engaged in meeting those costs.***

(21) The *Commission and the Board*, where relevant, should replace the national resolution

authorities designated under Directive [*BRRD*] in respect of all aspects related to the resolution decision-making process. The national resolution authorities designated under Directive [*BRRD*] should continue to carry out activities related to the implementation of resolution schemes adopted by the Board. In order to ensure transparency and democratic control, as well as to safeguard the rights of the Union institutions, the Board should be accountable to the European Parliament and to the Council for any decisions taken on the basis of this proposal. For the same reasons of transparency and democratic control, national parliaments should have certain rights to obtain information about the activities of the Board and to engage in a dialogue with it.

(21a) All relevant authorities should consider the principle of proportionality when applying this Regulation. The principle of proportionality implies, in particular, the evaluation of the impact that the failure of an institution could have, due to the nature of its business, its shareholding structure, its legal form, its risk profile, its size and its legal status, for example, whether it benefits from a waiver pursuant to Article 10 of Regulation (EU) No 575/2013, its interconnectedness with other institutions or to the financial system in general, the scope and the complexity of its activities and its membership of an institutional protection scheme (IPS) that meets the requirements of Article 113(7) of Regulation (EU) No 575/2013 or of another cooperative mutual solidarity systems as referred to in Article 113(6) of that Regulation, and whether it exercises any investment services or activities as defined in Article 4(1)(2) of Directive 2004/39/EC.

(21b) At the request of the national parliaments of the participating Member States, it should be possible for the relevant committees of those parliaments to hold a hearing, in the presence of the competent national authority, with a representative of the Board.

(22) Where Directive [*BRRD*] provides for the possibility of applying simplified obligations or waivers by the national resolution authorities in relation to the requirement of drafting resolution plans, a procedure should be provided for whereby the Board could authorise the application of such simplified obligations.

(23) To ensure a uniform approach for institutions and groups the Board should be empowered to draw up resolution plans for such institutions and groups***, in cooperation with the national resolution authorities, which the Board may require to perform tasks related to the drawing up of resolution plans***. The Board should assess the resolvability of institutions and groups, and take measures aimed at removing impediments to resolvability, if any. The Board should require national resolution authorities to apply such appropriate measures designed to remove impediments to resolvability in order to ensure consistency and the resolvability of the institutions concerned. ***Because of the institution-specific and confidential nature of the information contained in the resolution plans, decisions concerning the drawing up, assessment, and approval of the resolution plans and the application of appropriate measures should be taken by the Board in its executive session.***

(24) Resolution planning is an essential component of effective resolution. The Board

should therefore have the power to require changes to the structure and organization of institutions or groups in order to remove practical impediments to the application of resolution tools and ensure the resolvability of the entities concerned. Due to the potentially systemic nature of all institutions, it is crucial in order to maintain financial stability that authorities have the possibility to resolve any institution. In order to respect the right to conduct business laid down by Article 16 of the Charter of Fundamental Rights, the Board's discretion should be limited to what is necessary to simplify the structure and operations of the institution solely to improve its resolvability. In addition, any measure imposed for such purposes should be consistent with Union law. Measures should neither directly nor indirectly be discriminatory on ground of nationality, and should be justified by the overriding reason of the public interest in financial stability. To determine whether an action was taken in the general public interest, the Board, acting in the general public interest, should be able to achieve the resolution objectives without encountering impediments to the application of resolution tools or its ability to exercise the powers conferred on it. Furthermore, an action should not go beyond the minimum necessary to attain the objectives.

(24a) Resolution plans should take the impact on employees into account and, in accordance with Directive [BRRD], should include procedures for informing and consulting with employees or their representatives throughout the resolution process. Where applicable, collective agreements, or other arrangements provided for by the social partners, should be respected in this regard. Information about resolution plans, including any updates, should be communicated to the employees or their representatives as provided for in Directive [BRRD].

(25) The single resolution mechanism should be ***based*** on the frameworks of Directive [*BRRD*] and the SSM. Therefore, the Board should be empowered to intervene at an early stage where the financial situation or the solvency of an institution is deteriorating. The information that the Board receives from ▌the ECB at this stage is instrumental in making a determination on the action it might take in order to prepare for the resolution of the institution concerned.

(26) In order to ensure rapid resolution action when it becomes necessary, the Board should closely monitor, in cooperation with the relevant competent authority or the ECB, the situation of the institutions concerned and the compliance of those institutions with any early intervention measure taken in their respect.

(27) In order to minimise disruption *of* the financial market and to the economy, the resolution process should be accomplished in a short time. ***Depositors should be granted access at least to the guaranteed deposits as promptly as possible, and in any event before depositors are afforded access to guaranteed deposits in the context of a normal insolvency procedure, in accordance with Directive [DGSD].*** The Commission should, throughout the resolution procedure, have access to any information which it deems necessary to take an informed decision in the resolution process. Where the Commission decides ***to adopt the draft decision prepared by the Board*** to put an institution under resolution, the Board should immediately adopt a resolution scheme establishing the details of the resolution tools and powers to be applied, and the use of any financing arrangements.

(28) Liquidation of a failing institution under normal insolvency proceedings could jeopardise financial stability, interrupt the provision of essential services, and affect the protection of depositors. In such a case there is a public interest in applying resolution tools. The objectives of resolution should therefore be to ensure the continuity of essential financial services, to maintain the stability of the financial system, to reduce moral hazard by minimising reliance on public financial support to failing institutions, and to protect depositors.

(29) However, the winding up of an insolvent institution through normal insolvency proceedings should always be considered before a decision could be taken to maintain the institution as a going concern. An insolvent institution should be maintained as a going concern for financial stability purposes and with the use, to the extent possible, of private funds. That may be achieved either through sale to or merger with a private sector purchaser, or after having written down the liabilities of the institution, or after having converted its debt to equity in order to do a recapitalisation.

(30) When exercising resolution powers, the Commission and the Board should make sure that shareholders and creditors bear an appropriate share of the losses, that the managers are replaced ***or that further managers added***, that the costs of the resolution of the institution are minimised, and that all creditors of an insolvent institution that are of the same class are treated in a similar manner ***in accordance with this Regulation and with Directive [BRRD]***.

(31) The limitations on the rights of shareholders and creditors should comply with Article 52 of the Charter of Fundamental Rights. The resolution tools should therefore be applied only to those institutions that are failing or likely to fail, and only when it is necessary to pursue the objective of financial stability in the general interest. In particular, resolution tools should be applied where the institution cannot be wound up under normal insolvency proceedings without destabilizing the financial system and the measures are necessary in order to ensure the rapid transfer and continuation of systemically important functions and where there is no reasonable prospect for any alternative private solution, including any increase of capital by the existing shareholders or by any third party**,** sufficient to restore the full viability of the institution.

(32) Interference with property rights should not be disproportionate. As a consequence, affected shareholders and creditors should not incur greater losses than those which they would have incurred had the institution been wound up at the time that the resolution decision is taken. In the event of partial transfer of assets of an institution under resolution to a private purchaser or to a bridge institution, the residual part of the institution under resolution should be wound up under normal insolvency proceedings. In order to protect existing shareholders and creditors of the institution during the winding up proceedings, they should be entitled to receive in payment of their claims not less than what it is estimated they would have recovered if the whole institution had been wound up under normal insolvency proceedings.

(33) In order to protect the right of shareholders and ensure that creditors do not receive less than what they would receive in normal insolvency proceedings, clear obligations should be laid down concerning the valuation of the assets and liabilities of the institution and sufficient time should be allowed to estimate properly the treatment

that they would have received if the institution had been wound up under normal insolvency proceedings. There should be the possibility to start such a valuation already in the early intervention phase. Before any resolution action is taken, an estimate should be carried out of the value of the assets and liabilities of the institution and of the treatment that shareholders and creditors would receive under normal insolvency proceedings.

(34) It is important that losses be recognised upon failure of the institution. The guiding ***principles*** for the valuation of assets and liabilities of failing institutions ***are provided for in Directive [BRRD]***. It should be possible, for reasons of urgency, that the Board makes a rapid provisional valuation of the assets or liabilities of a failing institution which should apply until an independent valuation is carried out.

(35) So as to ensure that the resolution process remains objective and certain, it is necessary to lay down the order in which unsecured claims of creditors against an institution put under resolution should be written down or converted. In order to limit the risk of creditors incurring greater losses than if the institution had been wound up under normal insolvency proceedings, the order to be laid down should be applicable both in normal insolvency proceedings and in the write down or conversion process under resolution. This would also facilitate the pricing of debt.

(35a) Harmonisation of the insolvency law throughout the Union, which would constitute a major step in the construction of a truly internal market, has not yet been achieved. However, both for the entities established in Member States participating in the SSM and for those established in other Member States, due to the harmonisation introduced by Directive [BRRD], the hierarchy of the claims of the creditors in case of insolvency, which includes depositor's preference, will be the same. Such harmonisation eliminates an important source of regulatory arbitrage. Nevertheless, there should be a progressive move towards a Union regime of insolvency.

(36) The Commission***, based on a draft decision prepared by the Board,*** should provide the framework for the resolution action to be taken ***following the resolution plans of the entities concerned and*** depending on the circumstances of the case and should be able to designate for use all necessary resolution tools. Within that clear and precise framework, the Board should decide on the detailed resolution scheme. The relevant resolution tools should include the sale of business tool, the bridge institution tool, the bail-in tool and the asset separation tool, ***as*** provided for by Directive [*BRRD*]. The framework should also make it possible to assess whether the conditions for the write-down and conversion of capital instruments are met.

(37) ***In accordance with Directive [BRRD],*** the sale of business tool should enable the sale of the institution or parts of its business to one or more purchasers without the consent of shareholders.

(38) ***In accordance with Directive [BRRD],*** the asset separation tool should enable authorities to transfer under-performing or impaired assets to a separate vehicle. That tool should be used only in conjunction with other tools to prevent an undue competitive advantage for the failing institution.

(39) An effective resolution regime should minimise the costs of the resolution of a failing institution borne by the taxpayers. It should also ensure that even large institutions of systemic importance can be resolved without jeopardising financial stability. The bail-in tool achieves that objective by ensuring that shareholders and creditors of the entity suffer appropriate losses and bear an appropriate part of those costs. To this end, statutory debt write down powers should be included in a framework for resolution as an additional option in conjunction with other resolution tools, as recommended by the Financial Stability Board.

(40) ***In accordance with Directive [BRRD],*** in order to ensure the necessary flexibility to allocate losses to creditors in a range of circumstances, it is appropriate that the bail-in tool be applicable both where the objective is to resolve the failing institution as a going concern if there is a realistic prospect that the institution's viability may be restored, and where systemically important services are transferred to a bridge institution and the residual part of the institution ceases to operate and is wound up.

(41) ***In accordance with Directive [BRRD],*** where the bail-in tool is applied with the objective of restoring the capital of the failing institution to enable it to continue to operate as a going concern, resolution through bail-in should always be accompanied by the replacement of management and a subsequent restructuring of the institution and its activities in a way that addresses the reasons for its failure. That restructuring should be achieved through the implementation of a business reorganisation plan.

(42) ***In accordance with Directive [BRRD],*** it is not appropriate to apply the bail-in tool to claims in so far as they are secured, collateralised or otherwise guaranteed. However, in order to ensure that the bail-in tool is effective and achieves its objectives, it should be possible to apply it to as wide a range of the unsecured liabilities of a failing institution as possible. Nevertheless, it is appropriate to exclude certain kinds of unsecured liability from the scope of application of the bail-in tool. For reasons of public policy and effective resolution, the bail-in tool should not apply to those deposits that are protected under Directive 94/19/EC of the European Parliament and of the Council[1], to liabilities to employees of the failing institution or to commercial claims that relate to goods and services necessary for the daily functioning of the institution.

(43) ***In accordance with Directive [BRRD],*** depositors that hold deposits guaranteed by a deposit guarantee scheme should not be subject to the exercise of the bail-in tool. ▌The exercise of the bail-in powers would ensure that depositors continue having access to their deposits ▌.

(44) In order to implement the burden-sharing by shareholders and junior creditors, as required under State aid rules, the single resolution mechanism would be able to apply, by way of analogy, as of the entry into application of this Regulation ***and of Directive [BRRD]***, the bail-in tool.

(45) To avoid institutions structuring their liabilities in a manner that impedes the

[1] Directive 94/19/EC of the European Parliament and of the Council of 30 May 1994 on deposit-guarantee schemes. OJ L 135, 31.5.1994, p. 5–14.

effectiveness of the bail in tool, the Board should be able to establish that the institutions hold an aggregate amount of own funds, subordinated debt and senior liabilities subject to the bail-in tool expressed as a percentage of the total liabilities of the institution, that do not qualify as own funds for the purposes of Regulation (EU) No 575/2013 of the European Parliament and of the Council[1] and of Directive 2013/36/EU of 26 June 2013 of the European Parliament and of the Council[2] , which institutions should have at all times ***and which is set out in the resolution plans***.

(46) The best method of resolution should be chosen depending on the circumstances of the case and for this purpose, all the resolution tools provided for by Directive [*BRRD*] should be available ***and applied in accordance with that Directive***.

(47) Directive [*BRRD*] has conferred the power to write down and convert capital instruments on national resolution authorities, since the conditions for the write-down and conversion of capital instruments may coincide with the conditions for resolution and in such a case, an assessment is to be made of whether the sole write-down and conversion of the capital instruments is sufficient to restore the financial soundness of the entity concerned or it is also necessary to take resolution action. As a rule, it will be used in the context of resolution. The ***Board and the*** Commission should replace national resolution authorities also in this function and should therefore be empowered to assess whether the conditions for the write-down and conversion of capital instruments are met and to decide whether to place an entity under resolution, if the requirements for resolution are also fulfilled.

(48) The efficiency and uniformity of resolution action should be ensured in all the participating Member States. For this purpose, the Board should be empowered***,*** ▌ where a national resolution authority has not or not sufficiently applied the decision of the Board***, to issue orders directly to*** an institution under resolution ▌.

(49) In order to enhance the effectiveness of the single resolution mechanism, the Board should closely cooperate with the European Banking Authority in all circumstances. Where appropriate the Board should also cooperate with the European Securities and Markets Authority, the European Insurance and Occupational Pensions Authority and the European Systemic Risk Board, and the other authorities which form part of the European System of Financial Supervision. Moreover, the Board should closely cooperate with the ECB and the other authorities empowered to supervise credit institutions within the SSM, in particular for groups subject to the consolidated supervision by the ECB. To effectively manage the resolution process of failing banks, the Board should cooperate with the national resolution authorities at all stages of the resolution process. Thus, cooperation with the latter is necessary not only for the implementation of resolution decisions taken by the Board, but also prior to the adoption of any resolution decision, at the stage of resolution planning or during the

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

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

phase of early intervention. ***In the exercise of its tasks under this Regulation, the Commission should cooperate closely with EBA and should take appropriate account of the guidelines and recommendations issued by it.***

(49a) When applying resolution tools and exercising resolution powers, the Board should ensure that the representatives of the employees of the entities concerned are informed and, where appropriate, are consulted, as provided for in Directive [BRRD]. Where applicable, collective agreements, or other arrangements provided for by social partners, should be respected in this regard.

(50) Since the Board replaces national resolution authorities of the participating Member States in their resolution decisions, the Board should also replace those authorities for the purposes of the cooperation with non-participating Member States as far as the resolution functions are concerned. In particular, the Board should represent all authorities from the participating Members in the resolution colleges including authorities from non-participating Member States.

(50a) The Board and the resolution authorities of Member States that are not participating Member States should conclude a memorandum of understanding describing in general terms how they will cooperate with one another in the performance of their tasks under Directive [BRRD]. The memoranda of understanding could, inter alia, clarify the consultation relating to decisions of the Commission and the Board having effect on subsidiaries or branches established in the non-participating Member State whose parent undertaking is established in a participating Member State. The memoranda should be reviewed on a regular basis.

(51) As many institutions operate not only within the Union, but internationally, an effective resolution mechanism needs to set out principles of cooperation with the relevant third country authorities. Support to third country authorities should be provided in accordance with the legal framework provided by Article 88 of Directive [*BRRD*]. For this purpose, as the Board should be the single authority empowered to resolve failing banks in the participating Member States, the Board should be exclusively empowered to conclude non-binding cooperation agreements with those third country authorities, on behalf of the national authorities of the participating Member States.

(52) In order to carry out its tasks effectively, the Board should have appropriate investigatory powers. It should be able to require all necessary information either directly or through national resolution authorities, and to conduct investigations and on-site inspections, where appropriate in cooperation with national competent authorities***, making full use of all information available to the ECB and the national competent authorities***. In the context of resolution, on-site inspections would be available for the Board to effectively monitor implementation by national authorities and to ensure that the Commission and the Board take their decisions on the basis of fully accurate information.

(53) So as to ensure that the Board has access to all relevant information, the ***relevant entities and their*** employees should not be able to invoke professional secrecy rules to prevent the disclosure of information to the Board. ***At the same time, the disclosure of***

such information to the Board should never be seen as a breach of professional secrecy.

(54) In order to ensure that decisions adopted within the framework of the single resolution mechanism are respected, proportionate and dissuasive ***penalties*** should be imposed in case of infringement. The Board should be entitled to instruct national resolution authorities to impose ***administrative penalties*** or periodic penalty payments on ***entities*** for failure to comply with obligations under its decisions. In order to ensure consistent, efficient and effective enforcement practices the Board should be entitled to issue guidelines addressed to national resolution authorities concerning the application of ***administrative penalties*** and penalty payments.

(55) Where a national resolution authority infringes the rules of the single resolution mechanism by not using the powers conferred on it under national law to implement an instruction by the Board, the Member State concerned may be liable to make good any damage caused to individuals, including where applicable to the entity or group under resolution, or any creditor of any part of that entity or group in any Member State, in accordance with that case law.

(56) Appropriate rules should be laid down governing the budget of the Board, the preparation of the budget, the adoption of internal rules specifying the procedure for the establishment and implementation of its budget, ***the monitoring and control of the budget by the Board in its plenary session***, and the internal and external audit of the accounts.

(56a) The Board in its plenary session should also adopt, monitor and control its annual work programme and issue opinions and recommendations on the draft report by the Executive Director which should include a section on the resolution activities, including the ongoing resolution cases, and a section on financial and administrative matters.

(57) There are circumstances when the effectiveness of the resolution tools applied may depend on the availability of short-term funding for the institution or a bridge institution, the provision of guarantees to potential purchasers, or the provision of capital to the bridge institution. It is therefore important to set up a fund to avoid that public funds are used for such purposes.

(58) It is necessary to ensure that the Fund is fully available for the purpose of the resolution of failing institutions. Therefore, the Fund should not be used for any other purpose than the efficient implementation of resolution tools and powers. Furthermore, it should be used only in accordance with the applicable resolution objectives and principles***, fully respecting the provisions laid down in Directive [BRRD].*** Accordingly, the Board should ensure that any losses, costs or other expenses incurred in connection with the use of the resolution tools are first borne by the shareholders and the creditors of the institution under resolution. It is only if the resources from shareholders and creditors are exhausted, that the losses, costs or other expenses incurred with the resolution tools should be borne by the Fund.

(59) As a rule, contributions should be collected from the financial industry prior to and

independently of any operation of resolution. When prior funding is insufficient to cover the losses or costs incurred by the use of the Fund, additional contributions should be collected to bear the additional cost or loss. Moreover, the Fund should be able to contract borrowings or other forms of support from financial institutions or other third parties where its available funds are not sufficient to cover the losses, costs and other expenses incurred by the use of the Fund and the extraordinary ex post contributions are not immediately accessible.

(59a) If national bank levies, taxes or resolution contributions in response to the crisis are in place in participating Member States, those should be replaced by contributions to the Fund in order to avoid double payments.

(60) In order to reach a critical mass and to avoid pro-cyclical effects which would arise if the Fund had to rely solely on ex post contributions in a systemic crisis, it is indispensable that the ex-ante available financial means of the Fund amount to a certain target level.

(60a) The target level of the Fund should be established as a percentage of the amount of covered deposits of all credit institutions authorised in the participating Member States. However, since the amount of the total liabilities of those institutions would be, regarding the functions of the Fund, a more adequate benchmark, the Commission should assess if a reference value relating to total liabilities, to be reached additionally to the target funding level, should be introduced in the future, maintaining the level playing field with Directive [BRRD].

(61) An appropriate time frame should be set to reach the target funding level for the Fund. However, it should be possible for the Board to adjust the contribution period to take into account significant disbursements made from the Fund.

(61a) With a view to breaking the link between sovereigns and banks and ensuring the efficiency and the credibility of the SRM, in particular while the Fund is not entirely funded, it is essential to establish a European public loan facility within a reasonable time after the entry into force of this Regulation. Any loan from that loan facility should be reimbursed by the Fund within an agreed timeframe. That loan facility would ensure the immediate availability of adequate financial means for the purposes established in this Regulation.

(62) Where participating Member States have already established national resolution financing arrangements, they should be able to provide that the national resolution financing arrangements use their available financial means, collected from institutions in the past by way of ex-ante contributions, to compensate institutions for the ex-ante contributions which those institutions should pay into the Fund. Such restitution should be without prejudice to the obligations of Member States under Directive 94/18/EC of the European Parliament and of the Council[1].

[1] Directive 94/18/EC of the European Parliament and of the Council of 30 May 1994 amending Directive 80/390/EEC coordinating the requirements for the drawing up, scrutiny and distribution of the listing particulars

(63) In order to ensure a fair calculation of contributions and provide incentives to operate under a model which presents less risk, contributions to the Fund***, which are to be determined by the Board in accordance with Directive [BRRD] and the delegated acts adopted pursuant thereto, after consulting the competent authority,*** should take account of the degree of risk incurred by credit institutions.

I

(65) So as to protect the value of the amounts held in the Fund, these amounts should be invested in sufficiently safe, diversified and liquid assets.

(66) The Commission should be empowered to adopt delegated acts in accordance with Article 290 TFEU in order to determine the type of contributions to the Fund and the matters for which contributions are due, the manner in which the amount of the contributions is calculated and the way in which they are to be paid; specify registration, accounting, reporting and other rules necessary to ensure that the contributions are fully and timely paid; determine the contribution system for institutions that have been authorized to operate after the Fund has reached its target level; determine the criteria for the spreading out in time of the contributions; determine the circumstances under which the payment of contributions may be advanced; determine the criteria for establishing the ***amount of*** annual contributions; determine the measures to specify the circumstances and modalities under which an institution may be partially or entirely exempted from ex post contributions, and the measures to specify the circumstances and modalities under which an institution may be partially or entirely exempted from ex-post contributions.

(67) To preserve the confidentiality of the work of the Board, its members, staff of the Board, including the staff exchanged with or seconded by participating Member States for the purpose of carrying out resolution duties should be subject to requirements of professional secrecy, even after their duties have ceased. ***Those requirements should also apply to other persons authorised by the Board and persons authorised or appointed by the national resolution authorities of the Member States to conduct on-site inspections, and to observers invited to attend the plenary and executive sessions' meetings of the Board.*** For the purpose of carrying out the tasks conferred upon it, the Board should be authorized, subject to conditions, to exchange information with national or Union authorities and bodies.

(68) In order to ensure that the Board is represented in the European System of Financial Supervision, Regulation (EU) No 1093/2010 should be amended in order to include the Board in the concept of competent authorities established by that Regulation. Such assimilation between the Board and competent authorities pursuant to Regulation No 1093/2010 is consistent with the functions attributed to EBA pursuant to Article 25 of Regulation No 1093/2010 to contribute and participate actively in the development and coordination of recovery and resolution plans and to aim at the facilitation of the resolution of failing institutions and in particular cross border groups.

---

to be published for the admission of securities to official stock-exchange listing, with regard to the obligation to publish listing particulars. OJ L 135, 31.5.1994, p. 1.

(69) Until the Board is fully operational, the Commission should be responsible for the initial operations including collecting contributions necessary to cover administrative expenses and the designation of an interim executive director to authorise all necessary payments on behalf of the Board.

(70) This Regulation respects the fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union, notably the right to property, the protection of personal data, the freedom to conduct a business, ***employees' right to information and consultation within the undertaking,*** the right to an effective remedy and to a fair trial, and has to be implemented in accordance with those rights and principles,

HAVE ADOPTED THIS REGULATION:

PART I
GENERAL PROVISIONS

Article 1
Subject matter

This Regulation establishes uniform rules and a uniform procedure for the resolution of the entities referred to in Article 2 that are established in the participating Member States referred to in Article 4.

Those uniform rules and procedure shall be applied by ***the Board, as established under Article 38*** together with ***the Commission*** and the resolution authorities of the participating Member States within the framework of a single resolution mechanism established by this Regulation. The single resolution mechanism shall be supported by a single bank resolution fund (hereinafter called the Fund).

Article 2
Scope

This Regulation shall apply to the following entities:

(a) credit institutions established in participating Member States;

(b) parent undertakings established in one of the participating Member States, including financial holding companies and mixed financial holding companies when subject to consolidated supervision carried out by the ECB in accordance with Article 4(1)(i) of *Regulation (EU)No 1024/2013*;

(c) investment firms and financial institutions established in participating Member States when they are covered by the consolidated supervision of the parent undertaking carried out by the ECB in accordance with Article 4(1)(i) of *Regulation (EU)No 1024/2013*.

Article 3
Definitions

For the purposes of this Regulation, the definitions laid down in Article 2 of Directive [*BRRD*] and Article 3 of *Directive 2013/36/EU* shall apply. In addition, the following definitions shall apply:

(1) 'national competent authority' means any national competent authority as defined in Article 2(2) of *Regulation (EU)No 1024/2013*;

(1a) 'competent authority' means a competent authority as defined in Article 4(40) of Regulation (EU) No 575/2013 and the ECB in its supervisory function in accordance with Regulation (EU) No 1024/2013;

(2) 'national resolution authority' means an authority designated by a Member State in accordance with Article 3 of Directive [*BRRD*];

(3) ‘resolution action’ means the application of a resolution tool to an institution or an entity referred to in Article 2, or the exercise of one or more resolution powers in relation to it;

(3a) 'the Board' means the Single Resolution Board established in accordance with Article 38 of this Regulation;

(4) ‘covered deposits’ mean deposits which are guaranteed by deposit guarantee schemes under national law in accordance with Directive 94/19/EC and up to the coverage level provided for in Article 7 of Directive 94/19/EC;

(5) ‘eligible deposits’ means deposits defined in Article 1 of Directive 94/19/EC which are not excluded from protection according to Article 2 of that Directive, regardless of their amount;

▌

(11) ‘institution under resolution’ means an entity referred to in Article 2 in respect of which a resolution action is taken;

(12) ‘institution’ means a credit institution, or an investment firm covered by consolidated supervision in accordance with point (c) of Article 2;

(13) ‘group’ means a parent undertaking and its subsidiaries, which are entities as referred to in Article 2;

▌

(19) ‘available financial means’ means the cash, deposits, assets and irrevocable payment commitments available to the Fund for the purposes listed under Article 74;

(20) ‘target funding level’ means the amount of available financial means to be reached under Article 68.

Article 4
Participating Member States

A participating Member States shall be a Member States whose currency is the euro or a Member State whose currency is not the euro which has established a close cooperation in accordance with Article 7 of *Regulation (EU)No 1024/2013*.

Article 5
Relation to Directive [BRRD] and applicable national law

-1. Subject to this Regulation, the exercise by the Commission and the Board of tasks or powers under this Regulation shall be governed by Directive [BRRD] and any delegated acts adopted pursuant thereto.

1. Where, by virtue of this Regulation, the Commission or the Board exercises tasks or powers, which, according to Directive [*BRRD*] are to be exercised by the national

resolution authority of a participating Member State, the Board shall, for the application of this Regulation and ***of*** Directive [*BRRD*], be considered to be the relevant national resolution authority or, in case of cross-border group resolution, the relevant group ***level*** resolution authority.

1a. Where the Board exercises the powers conferred on it by this Regulation, it shall be subject to binding regulatory and implementing technical standards developed by EBA and adopted by the Commission in accordance with Articles 10 to 15 of Regulation (EU) No 1093/2010, to any guidelines and recommendations adopted by EBA in accordance to Article 16 of Regulation (EU) No 1093/2010 under the relevant provisions of Directive [BRRD] and to any decisions of EBA in accordance with Article 19 of Regulation (EU) No 1093/2010 under the relevant provisions of Directive [BRRD].

2. The Board, when acting as national resolution authority, shall act, where relevant, under authorisation of the Commission.

3. Subject to the provisions of this Regulation, the national resolution authorities of the participating Member State shall act on the basis of and in conformity with the relevant provisions of national law, as harmonized by Directive [*BRRD*].

Article 6
General principles

1. No action, proposal or policy of the Board, the Commission or a national resolution authority shall discriminate against entities referred to in Article 2, deposit holders, investors or other creditors established in the Union on grounds of their nationality***,*** or place of business.

1a. Every action, proposal or policy of the Board, the Commission or of a national resolution authority in the framework of the SRM shall be undertaken with a view to promoting the stability of the financial system within the Union and within each participating Member State with full regard and duty of care for the unity and integrity of the internal market.

2. When making decisions or taking action, which may have an impact in more than one ▌Member State, and in particular when taking decisions concerning groups established in two or more participating Member States, the Commission ***and the Board*** shall give due consideration to all of the following factors:

(a) the interests of the ▌Member States where a group operates and in particular the impact of any decision or action or inaction on the financial stability, the economy, the deposit guarantee scheme or the investor compensation scheme of any of those Member States;

(b) the objective of balancing the interests of the various Member States involved and avoiding unfairly prejudicing or unfairly protecting the interests of a ▌Member State;

(c) the need to avoid a negative impact for other parts of a group of which an entity referred to in Article 2, which is subject to a resolution, is a member;

(ca) where possible, the interest of the group to continue its cross-border activity;

(d) the need to avoid a disproportionate increase in the costs imposed on the creditors of ***the*** entities referred to in Article 2, to the extent that it would be greater than the one that they will have incurred had they been resolved through normal insolvency proceedings;

(e) the decisions to be taken under Article 107 of the TFEU and referred to in Article 16(10)***;***.

3. The Commission ***and the Board*** shall balance the factors referred to in paragraph 2 with the resolution objectives referred to in Article 12 as appropriate to the nature and circumstances of each case.

4. ***Decisions or actions*** of the Board or ***of*** the Commission shall ***neither*** require Member States to provide extraordinary public financial support ***nor directly impinge on the fiscal responsibilities of the Member States***.

4a. When making decisions or taking actions, the Board shall ensure that the representatives of the employees of the entities concerned are informed and, where appropriate, consulted.

4b. Actions, proposals and policies of the Commission, the Board and national resolution authorities under this Regulation shall respect the principle of non-discrimination with regard to any Member State or group of Member States.

4c. When carrying out the tasks conferred on it by this Regulation, the Commission shall act independently, separately from its other tasks, and strictly in accordance with the objectives and principles set out in this Regulation and in Directive [BRRD]. The separation of tasks should be guaranteed through appropriate organisational adjustments.

PART II
SPECIFIC PROVISIONS

TITLE I

FUNCTIONS WITHIN THE SINGLE RESOLUTION MECHANISM AND PROCEDURAL RULES

Chapter 1

Resolution planning

Article 7
Resolution plans

1. The Board shall draw up***, together with national resolution authorities, and approve,*** resolution plans for the entities referred to in Article 2 and for groups.

2. For the purposes of paragraph 1, the national resolution authorities shall forward to the Board all information necessary to draw up and implement the resolution plans, as obtained by them in accordance with Articles 10 and 12(1) of Directive [*BRRD*], without prejudice to Chapter 5 of this Title.

2a. The resolution plan for each entity and group resolution plans shall be prepared in accordance with Articles 9 to 12 of Directive [BRRD].

I

7. The Board shall draw up the resolution plans in cooperation with the supervisor or consolidating supervisor and with the national resolution authorities of the participating Member States in which the entities are established. ***The Board shall cooperate with resolution authorities in non-participating Member States where there are entities in those Member States included in consolidated supervision.***

8. The Board may require national resolution authorities to prepare preliminary draft resolution plans and the group level resolution authority to prepare a preliminary draft group resolution plan ***for revision and approval by the Board***. ***The Board may require national resolution authorities to perform other tasks related to the drawing up of resolution plans.***

9. Resolution plans shall be reviewed, and where appropriate updated, ***in accordance with Articles 9 and 12 of Directive [BRRD]***.

9a. Decisions regarding the drawing up, assessment and approval of the resolution plans and the application of appropriate measures shall be taken by the Board in its executive session.

Article 8
Assessment of resolvability

1. When drafting resolution plans in accordance with Article 7, the Board, after consultation with the competent ***authorities,*** including the ECB, and the resolution authorities of non-participating Member States ***in which subsidiaries are located and/or*** in which significant branches are located insofar as is relevant to the significant branch ***as determined in Articles 13 and 13a of Directive [BRRD]***, shall conduct an assessment of the extent to which institutions and groups are resolvable ***as required by Articles 13 and 13a of Directive [BRRD]***.

2. ▌An entity shall be deemed resolvable ***in the situations provided for in Article 13 of Directive [BRRD]***.

3. ▌A group shall be deemed resolvable ***in the situations provided for in Article 13a of Directive [BRRD]***.

4. For the purpose of the assessment, the Board shall, as a minimum, examine the matters specified in Section C of the Annex of Directive [*BRRD*].

5. If pursuant to an assessment of resolvability for an entity or a group carried out in accordance with ***paragraph 1***, the Board after consultation with the competent authority, including the ECB, determines that there are potential substantive impediments to the resolvability of that entity or group, the Board shall prepare a report, in consultation with the competent authorities, addressed to the institution or the parent undertaking analysing the substantive impediments to the effective application of the resolution tools and the exercising of the resolution powers. That report shall also recommend any measures that, in the Board's view, are necessary or appropriate to remove those impediments in accordance with paragraph 8.

6. The report shall be notified to the entity or parent undertaking concerned, to the competent authorities and to the resolution authorities of non-participating Member States in which significant branches ***or subsidiaries*** are located. It shall be supported by reasons for the assessment or determination in question and shall indicate how that assessment or determination complies with the requirement for proportionate application set out in Article 6.

7. Within four months from the date of receipt of the report, the entity or the parent undertaking may submit observations and propose to the Board alternative measures to remedy the impediments identified in the report. The Board shall communicate any measure proposed by the entity or parent undertaking to the competent authorities and to the resolution authorities of non-participating Member States in which significant branches ***or subsidiaries*** are located.

8. If the measures proposed by the entity or parent undertaking concerned do not effectively remove the impediments to resolvability, the Board shall take a decision, after consultation with the competent ***authorities*** and, where appropriate, the macroprudential authority, indicating that the measures proposed do not effectively remove the impediments to resolvability, and instructing the national resolution

authorities to require the institution, the parent undertaking, or any subsidiary of the group concerned, to take any of the measures listed in ***Article 14 of Directive [BRRD]***, based on the following criteria:

(a) the effectiveness of the measure in removing the impediments to resolvability;

(b) the need to avoid a negative impact on financial stability in ▌Member States ***where the group operates***;

(c) the need to avoid an impact on the institution or the group concerned which would go beyond what is necessary to remove the impediment to resolvability or would be disproportionate.

9. For the purpose of paragraph 8, the Board shall instruct national resolution authorities to take any of the ▌measures ***listed in Article 14 of Directive [BRRD].***

▌

10. The national resolution authorities shall implement the instructions of the Board in accordance with Article 26.

Article 8a
Resolvability of systemically important institutions

Without prejudice to its powers and independence, the Board shall prioritise the assessment of the resolvability of institutions that carry systemic risks, including but not limited to institutions identified as global systemically important institutions (G-SIIs) or as other systemically important institutions (O-SIIs) pursuant to Article 131 of Directive 2013/36/EU, and, where appropriate, shall draw up a plan for each of those institutions to remove impediments to resolvability in accordance with Article 8 of this Regulation and Article 14 of Directive [BRRD].

Article 9
Simplified obligations and waivers

1. The Board, on its own initiative or upon proposal by a national resolution authority, may apply simplified obligations in relation to the drafting of ***recovery and*** resolution plans ***in accordance with Article 4 of Directive [BRRD]***.

2. National resolution authorities may propose to the Board to apply simplified obligations ***regarding the*** drafting ***of the*** plans for specific institutions or groups. That proposal shall be reasoned and shall be supported by all the relevant documentation.

3. On receiving a proposal pursuant to paragraph 1, or when acting on its own initiative, the Board shall conduct an assessment of the institutions or group concerned. The assessment shall be made having regard to the ***elements provided for in Article 4 of Directive [BRRD]***.

▌

4. The Board shall assess the continuing application of ***simplified obligations and cease to apply those in the situations provided for in Article 4 of Directive [BRRD]***.

Where the national resolution authority which has proposed the application of simplified obligation ▌in accordance with paragraph 1 considers that the decision to apply simplified obligation ▌must be withdrawn, it shall submit a proposal to the Board to that end. In that case, the Board shall take a decision on the proposed withdrawal taking full account of the justification for withdrawal put forward by the national resolution authority in the light of the elements set out in paragraph 3.

▌

7. The Board shall inform the EBA about its application of paragraphs 1 ***and*** 4.

Article 10
Minimum requirement for own funds and eligible liabilities

1. The Board shall, in consultation with competent authorities, including the ECB, determine the minimum requirement of own funds and eligible liabilities, as referred to in paragraph 2, subject to write down and conversion powers, that institutions and parent undertakings referred to in Article 2 shall be required to maintain.

2. The minimum requirement shall be calculated ***in accordance with Article 39 of Directive [BRRD]***.

3. The determination referred to in paragraph 1 shall be made on the basis of the ▌criteria ***laid down in Article 39 of Directive [BRRD].***

▌

The determination shall specify the minimum requirement that the institutions shall be required to comply with on an individual basis, and that parent undertakings shall be required to comply with on a consolidated basis. The Board may decide to waive the minimum requirement on a consolidated ***or individual*** basis ***in the situations provided for in Article 39 of*** Directive [*BRRD*] ▌.

4. The determination referred to in paragraph 1 may provide that the minimum requirement of own funds and eligible liabilities is partially met on a consolidated or an individual basis through contractual bail-in instrument ***in accordance with Article 39 of Directive [BRRD]***.

▌

6. The Board shall take any determination referred to in paragraph 1 in the course of developing and maintaining resolution plans pursuant to Article 7.

7. The Board shall address its determination to the national resolution authorities. The national resolution authorities shall implement the instructions of the Board in accordance with Article 26. The Board shall require that the national resolution authorities verify and ensure that institutions and parent undertakings maintain the

minimum requirement provided for in paragraph 1.

8. The Board shall inform the ECB and the EBA of the minimum requirement that it has determined for each institution and parent undertaking under paragraph 1.

Chapter 2

Early intervention

Article 11
Early intervention

1. The ECB***, on its own initiative or following a communication from a national*** competent ***authority*** of ***a*** participating Member State ***,*** shall inform the Board of any measure that they require an institution or group to take or that they take themselves pursuant to ***Article 16*** of *Regulation (EU) No 1024/2013*, pursuant to Articles 23(1) or 24 of Directive [*BRRD*], or pursuant to Article 104 of Directive 2013/36/EU.

   The Board shall notify the Commission of any information which it has received pursuant to the first subparagraph.

2. From the date of receipt of the information referred to in paragraph 1, and without prejudice to the powers of the ECB and competent authorities in accordance with other Union law, the Board may prepare for the resolution of the institution or group concerned.

   For the purposes of the first subparagraph, the Board shall closely monitor, in cooperation with the ECB and relevant competent authority, the conditions of the institution or the parent undertaking, and their compliance with any early intervention measure that has been required to take.

3. The Board shall have the power:

   (a) to require, in accordance with Chapter 5 of this Title, all information that is necessary in order to prepare for the resolution of the institution or of the group;

   (b) to carry out a valuation of the assets and liabilities of the institution or group in accordance with Article 17;

   (c) to contact potential purchasers in order to prepare for the resolution of the institution or the group, or to require the institution, parent undertaking, or the national resolution authority to do so, subject to compliance with the confidentiality requirements established by this Regulation and by Article 76 of Directive [*BRRD*];

   (d) to require the relevant national resolution authority to draft a preliminary resolution scheme for the institution or group concerned.

4. If ***the*** ECB or the ***national*** competent authorities of the participating Member States intend to impose on an institution or a group any additional measure under ***Article 16*** of *Regulation (EU)No 1024/2013* or under Articles 23 or 24 of Directive [*BRRD*] or under Article 104 of Directive 2013/36/EU, before the institution or group has fully complied with the first measure notified to the Board, ***the ECB, on its own initiative or following a communication from the national competent authority,*** shall ***inform*** the Board before ▌such additional measure ***is imposed*** on the institution or group concerned.

5. The ECB or the competent authority and the Board shall ensure that the additional measure referred to in paragraph 4 and any action of the Board aimed at preparing for resolution under paragraph 2 are consistent.

Chapter 3

Resolution

Article 12
Resolution Objectives

1. When acting under the resolution procedure referred to in Article 16, the Commission and the Board, in respect of their respective responsibilities, shall have regard to the resolution objectives ***provided for in Article 26 of Directive [BRRD]***, and choose the tools and powers that, in its view, best achieve the objectives that are relevant in the circumstances of the case.

2. ▌When pursuing the above objectives, the Commission and the Board shall ***act in accordance with Article 26 of Directive [BRRD]***.

▌

Article 13
General principles governing resolution

When acting under the resolution procedure referred to in Article 16, the Commission and the Board shall take all appropriate measures to ensure that the resolution action is taken in accordance with the ▌principles ***laid down in Article 29 of Directive [BRRD].***

▌

Article 14
Resolution of financial institutions and parent undertakings

Resolution action in relation to financial institutions and their parent undertakings shall be taken by the Commission***, based on a draft decision prepared by the Board, in accordance with Article 28 of Directive [BRRD].***

▌

Article 15
Order of priority of claims

When applying the bail-in tool to an institution under resolution, and without prejudice to liabilities excluded from the bail-in tool under Article 24(3), the Commission***, based on a draft decision prepared by the Board,*** shall decide on, and the Board and the national resolution authorities of the participating Member States shall exercise the write down and conversion powers to claims ***following the sequence laid down in Article 43 of Directive [BRRD].***

Article 16
Resolution procedure

1. Where the ECB***, on its own initiative*** or ***following a communication from*** a national ***competent*** authority ***of a participating Member State,*** assesses that the conditions referred to in points (a) and (b) of paragraph 2 are met in relation to an entity referred to in Article 2, it shall ***notify*** that assessment without delay to the Commission and the Board.

   The notification referred to in the first subparagraph may take place following a request for assessment from the Board or from a national resolution authority, if any of them considers that there is reason to consider that an institution is failing or likely to fail.

   The notification referred to in the first subparagraph shall take place after consultation of the Board and of the national resolution authority.

1a. The Board shall prepare and take all its decisions related to the resolution procedure in its executive session in accordance with Article 50.

2. On receiving a ***notification*** pursuant to paragraph 1, ▌the Board ***in its executive session*** shall conduct an assessment ***to verify that*** the following conditions are met:

   (a) the entity is failing or likely to fail;

   (b) having regard to timing and other relevant circumstances, there is no reasonable prospect that any alternative private sector ***measures, including measures by IPS,*** or supervisory action (including early intervention measures or the write down or conversion of capital instruments in accordance with ***Article 18***), taken in respect of the entity, would prevent its failure within a reasonable timeframe;

   (c) a resolution action is necessary in the public interest pursuant to paragraph 4.

3. For the purposes of point (a) of paragraph 2, the entity is deemed to be failing or likely to fail in any of the ▌circumstances ***laid down in Article 27(2) of Directive [BRRD].***

   ▌

4. For the purposes of point (c) of paragraph 2, a resolution action shall be treated as in

the public interest ***in the circumstances provided for in Article 27(3) of Directive [BRRD].***

5. ***Where it assesses that*** all the conditions established in paragraph 2 are met, the Board shall ***submit*** to the Commission***, taking into account the notification referred to in paragraph 1, a draft decision providing*** that the entity be placed under resolution. The ***draft decision*** shall include at least the following:

   (a) the recommendation to place the entity under resolution;

   (b) the framework of the resolution tools referred to in Article 19(32);

   (c) the framework of the use of the Fund to support the resolution action in accordance with Article 71.

6. ***Upon receiving the draft decision from the Board***, the Commission shall decide whether or not ***to adopt the draft decision,*** on the framework of the resolution tools that shall be applied in respect of the entity concerned and***, where appropriate, on*** the use of the Fund to support the resolution action. ▌

   Where the Commission ***intends not to adopt the draft decision submitted by the Board or to adopt it with amendments, it shall send the draft decision back to the Board, explaining why it does not intend to adopt it or, as the case may be, explaining the reasons for its intended amendments, and requesting its revision. The Commission may establish a deadline within which the Board may amend its initial draft decision on the basis of the Commission's proposed amendments and resubmit it to the Commission. Except in duly justified cases of emergency, the Board shall have at least five working days to revise the draft decision following a request by the Commission***.

   The Commission shall make every effort to comply with any guidelines and recommendations issued by EBA concerning the exercise of the tasks conferred on it under this paragraph and act, regarding the confirmation of whether it complies or intends to comply with that guideline or recommendation, as provided for in Article 16(3) of Regulation (EU) No 1093/2010.

7. The decision of the Commission shall be addressed to the Board. If the Commission decides not to place the entity under resolution, because the condition laid down in paragraph 2(c) is not met, the entity concerned shall be wound up in accordance with national insolvency law.

8. Within the framework set by the Commission decision, the Board ***in its executive session*** shall decide on the resolution scheme referred to in Article 20 and shall ensure that the necessary resolution action is taken to carry out the resolution scheme by the relevant national resolution authorities. The decision of the Board shall be addressed to the relevant national resolution authorities and shall instruct those authorities, which shall take all necessary measures to implement the decision of the Board in accordance with Article 26, by exercising any of the resolution powers provided for in Directive [*BRRD*], in particular those in Articles 56 to 64 of that *Directive*. Where State aid is

present, the Board may only decide after the Commission has taken a decision on that State aid.

9. ***If*** the Board considers that resolution measures could constitute State aid pursuant to Article 107(1) TFEU, it shall invite the participating Member State or Member States concerned to immediately notify the envisaged measures to the Commission under Article 108(3) TFEU.

10. To the extent that the resolution action as proposed by the Board ***in its executive session*** involves the use of the Fund and does not entail the grant of State aid pursuant to Article 107(1) of the TFEU, the Commission shall apply in parallel, by way of analogy, the criteria established for the application of Article 107 TFEU.

11. The Commission shall have the power to obtain from the Board any information which it deems relevant for fulfilling its tasks under this Regulation and, where applicable, Article 107 TFEU. The Board shall have the power to obtain from any person, in accordance with Chapter 5 of this Title, any information necessary for it to prepare and decide upon a resolution action including updates and supplements of information provided in the resolution plans.

12. The Board shall have the power to ***submit*** to the Commission ***draft decisions*** to amend the framework for the resolution tools and for the use of the Fund in respect of an entity placed under resolution.

12a. In order to preserve a level playing field, the Commission shall, in the performance of its State aid competences and in accordance with Directive [BRRD], treat the use of the Fund as it would treat a national resolution financing arrangement.

Article 17
Valuation

1. Before taking resolution action or exercising the power to write down or convert capital instruments, the Board shall ensure that a fair and realistic valuation of the assets and liabilities of an entity referred to in Article 2 is carried out ***in accordance with Article 30 of Directive [BRRD]***.

▌

16. After the resolution action has been effected, for the purposes of assessing whether shareholders and creditors would have received better treatment if the institution under resolution had entered into normal insolvency proceedings, the Board shall ensure that a valuation is carried out ***in accordance with Article 66 of Directive [BRRD],*** distinct from the valuation carried out under ***paragraph*** *1* ▌.

▌

Article 18
Write down and conversion of capital instruments

1. The ECB, ***on its own initiative or following a communication from a national*** competent authority ***of a participating Member State***, shall inform the Board where ***it assesses*** that the conditions ***for write down and conversion of capital instruments provided for in Directive [BRRD]*** are met in relation to an entity referred to in Article 2 or a group established in a participating Member State**.**

▌

1a. The ECB shall provide the Board with information under paragraph 1 following a request for assessment from the Board or from a national resolution authority, if any of them considers that there is reason to consider that the conditions for write down and conversion of capital instruments are met in relation to an entity referred to in Article 2 or a group established in a participating Member State.

1b. If the conditions established in paragraph 1 are met, the Board shall submit to the Commission, taking into account the information referred to in paragraph 1, a draft decision providing that the powers to write down or convert capital instruments are exercised and whether those powers shall be exercised singly or, following the procedure under Article 16(4) to (7), together with a resolution action.

▌

5. ***Upon receiving the draft decision from the Board the*** Commission ▌shall ***decide whether or not to adopt the draft decision and*** whether the powers to write down or convert capital instruments shall be exercised singly or, following the procedure under Article 16(4) to (7), together with a resolution action.

6. Where ▌the conditions referred to in paragraph 1 are met, but the conditions for resolution in accordance with Article 16(2) are not met, the Board, following a decision of the Commission, shall instruct the national resolution authorities to exercise the write down or conversion powers in accordance with Articles 51 and 52 of Directive [*BRRD*].

7. Where the conditions ***for write down and conversion of capital instruments*** referred to in paragraph 1 are met, and the conditions ***for resolution*** referred to in Article 16(2) are also met, the procedure set out in Article 16(4) to (7) shall apply.

8. The Board shall ensure that national resolution authorities exercise the write down or conversion powers in ***accordance with Directive [BRRD].***

▌

9. The national resolution authorities shall implement the instructions of the Board and exercise the write down or conversion of capital instruments in accordance with Article 26.

Article 19
General principles of resolution tools

1. Where the Board decides to apply a resolution tool to an entity referred to in Article 2, and that resolution action would result in losses being borne by creditors or their claims being converted, the Board shall exercise the power under Article 18 immediately before or together with the application of the resolution tool.

2. The resolution tools referred to in point be of Article 16(5) are the following:

   (a) the sale of business tool;

   (b) the bridge institution tool;

   (c) the asset separation tool;

   (d) the bail-in tool.

3. When adopting the ***draft decision*** referred to in Article 16(5), the Board shall consider the following factors:

   (a) the assets and liabilities of the institution under resolution on the basis of the valuation pursuant to Article 17;

   (b) the liquidity position of the institution under resolution;

   (c) the marketability of the franchise value of the institution under resolution in the light of the competitive and economic conditions of the market;

   (d) the time available.

4. ***The*** resolution tools may be applied either separately or together, except for the asset separation tool which may be applied only together with another resolution tool.

4a. For the purpose of carrying out the tasks conferred on it by this Regulation, and with the objective of ensuring a level playing field in the application of the resolution tools, the Board, together with the Commission, shall adopt a resolution handbook setting out clear and detailed guidance for the use of the resolution tools.

The resolution handbook referred to in the first subparagraph shall take the form of a delegated act adopted by the Commission in accordance with Article 82.

Article 20
Resolution Scheme

The resolution scheme adopted by the Board under Article 16(8) shall establish, in compliance with the decisions of the Commission on the resolution framework under Article 16(6) and with any decision on State aid where applicable by analogy**,** the details of the resolution tools to be applied to the institution under resolution concerning at least the measures referred to in Articles 21(2), 22(2), 23(2) and 24(1) and determine the specific

amounts and purposes for which the Fund shall be used.

In the course of the resolution process, the Board may amend and update the resolution scheme as appropriate in light of the circumstances in the case and within the resolution framework decided upon by the Commission pursuant to Article 16(6).

Article 21
Sale of business tool

1. Within the framework decided by the Commission, the sale of business tool shall consist of the transfer to a purchaser that is not a bridge institution of the following:

   (a) shares or other instruments of ownership of an institution under resolution; or

   (b) all or specified assets, rights or liabilities of an institution under resolution.

2. Concerning the sale of business tool, the resolution scheme referred to in Article 16(8) shall establish in particular:

   (a) the instruments, assets, rights and liabilities to be transferred by the national resolution authority in accordance with Article 32(1) and (7) to (11) of the Directive [*BRRD*];

   (b) the commercial terms, having regard to the circumstances and to the costs and expenses incurred in the resolution process, pursuant to which the national resolution authority shall make the transfer in accordance with Article 32(2) to (4) of Directive [*BRRD*];

   (c) whether the transfer powers may be exercised by the national resolution authority more than once in accordance with Article 32(5) and (6) of Directive [*BRRD*];

   (d) the arrangements for the marketing by the national resolution authority of that entity or those instruments, assets, rights and liabilities in accordance with Article 33 (1) and (2) of Directive [*BRRD*];

   (e) whether the compliance with the marketing requirements by the national resolution authority is likely to undermine the resolution objectives in accordance with paragraph 3.

3. The Board shall apply the sale of business tool without complying with the marketing requirements under point (e) of paragraph 2 when it determines that compliance with those requirements would be likely to undermine one or more of the resolution objectives and in particular where the following conditions are met:

   (a) it considers that there is a material threat to financial stability arising from or aggravated by the failure or potential failure of the institution under resolution;

   (b) it considers that compliance with those requirements would be likely to undermine the effectiveness of the sale of business tool in addressing that

threat or achieving the resolution objective specified in point (b) of Article 12(2).

Article 22
Bridge institution tool

1. Within the framework decided by the Commission, the bridge institution tool shall consist of the transfer to a bridge institution of any of the following:

   (a) shares or other instruments of ownership issued by one or more institutions under resolution;

   (b) all or any assets, rights or liabilities of one or more institutions under resolution.

2. With regard to the bridge institution tool the resolution scheme referred to in Article 20 shall establish in particular:

   (a) the instruments, assets, rights and liabilities to be transferred to a bridge institution by the national resolution authority in accordance with Article 34(1) to (9) of Directive [*BRRD*];

   (b) the arrangements for the setting up, the operation and the termination of the bridge institution by the national resolution authority in accordance with Article 35(1) to (3) and (5) to (8) of Directive [*BRRD*];

   (c) the arrangements for the marketing of the bridge institution or its assets or liabilities by the national resolution authority in accordance with Article 35(4) of Directive [*BRRD*].

3. The Board shall make sure that the total value of liabilities transferred by the national resolution authority to the bridge institution does not exceed the total value of the rights and assets transferred from the institution under resolution or provided by other sources.

3a. Any consideration received for the bridge institution or some or all of the property rights and liabilities of the bridge institution shall comply with the relevant provisions within the [BRRD].

Article 23
Asset separation tool

1. Within the framework decided by the Commission, the asset separation tool shall consist of the transfer of assets, rights or liabilities of an institution under resolution to an asset management vehicle ***that meets the requirements established in Directive [BRRD] for a legal entity to be an asset management vehicle***.

   ▌

2. Concerning the asset separation tool the resolution scheme referred to in Article 20

shall establish in particular:

(a) the instruments, assets, rights and liabilities to be transferred by the national resolution authority to an asset management vehicle in accordance with Article 36(1) to (4) and (6) to (10) of Directive [*BRRD*];

(b) the consideration for which the assets shall be transferred by the national resolution authority to the asset management vehicle, in accordance with the principles established in Article 17. This provision does not prevent the consideration having nominal or negative value.

2a. Any consideration received for the asset management vehicle or some or all of the property rights and liabilities of the asset management vehicle shall comply with the relevant provisions within Directive [BRRD].

Article 24
Bail-in tool

1. The bail-in tool may be applied for ▌the ▌purposes ***laid downin Article 37 of Directive [BRRD].***

▌

Within the framework decided by the Commission concerning the bail-in tool, the resolution scheme shall establish in particular:

(a) the aggregate amount by which eligible liabilities must be reduced or converted, in accordance with paragraph 6;

(b) the liabilities that may be excluded in accordance with paragraphs 5 to 13;

(c) the objectives and minimum content of the business reorganisation plan to be submitted in accordance with paragraph 16.

2. ▌

If the condition ***for the bail-in tool to be applied to recapitalise an entity*** set out in ***Article 37(3) of Directive [BRRD]*** is not fulfilled, any of the resolution tools referred to in points (a), (b) and (c) of paragraph 2 of Article 19, and the bail-in tool referred to in point (d) of paragraph 2 of Article 19, shall apply, as appropriate.

3. The ▌liabilities ***laid down in Article 38(2) of Directive [BRRD]*** shall not be subject to write down and conversion. ▌▌

5. ***The exclusion, in*** exceptional circumstances, ***of*** certain liabilities ▌from the application of the write-down and conversion powers ***may take place in accordance with Article 38(2a) of Directive [BRRD].***

▌

Where an eligible liability or class of eligible liabilities is excluded, or partially excluded, the level of write down or conversion applied to other eligible liabilities may be increased to take account of such exclusions, provided that the level of write down and conversion applied to other eligible liabilities respects the principle ***that no creditor shall incur greater losses than would have been incurred if the entity referred to in Article 2 had been wound up under normal insolvency proceedings***.

6. Where an eligible liability or class of eligible liabilities ***is*** excluded or partially excluded, pursuant to paragraph 5, and the losses that would have been borne by those liabilities have not been passed on fully to other creditors, a contribution from the Fund may be made to the institution under resolution ***for the purposes laid down in, and in accordance with, Article 38 of Directive [BRRD]***.

▌

8. The contribution of the Fund may be financed by:

(a) the amount available to the Fund which has been raised through contributions by entities referred to in Article 2 in accordance with Article 66;

(b) the amount that can be raised through ex post contributions in accordance with Article 67 within a period of three years; and

(c) where the amounts referred to in points (a) and (b) are insufficient, amounts raised from alternative financing sources in accordance with Article 69***, including in the framework of the loan facility referred to in that Article***.

9. In ***the*** extraordinary circumstances ***provided for in Article 38(.) of Directive [BRRD]***, further funding may be sought from alternative financing sources ***in accordance with that Article.***

▌

10. As an alternative or in addition, when the conditions ***for a contribution by the Fund to be made provided for in Article 38 of Directive [BRRD]*** are met, a contribution may be made from resources which have been raised through ex-ante contributions in accordance with Article 66 and which have not yet been used.

▌

12. When taking the decision ***to exclude certain liabilities from the application of the write-down and conversion powers*** referred to in paragraph 5, due consideration shall be given to the ▌factors ***laid down in Article 38 of Directive [BRRD].*** ▌

13. ***When applying the bail-in tool, the*** Board shall make ***an*** assessment ***in accordance with Article 41 of Directive [BRRD].***

▌

14. Exclusions under paragraph 5 may be applied either to completely exclude a liability

from write down or to limit the extent of the write down applied to that liability.

15. The write down and conversion powers shall respect the requirements on the priority of claims set out in Article 15.

16. The national resolution authority shall immediately forward to the Board the business reorganisation plan received after the application of the bail-in tool from the administrator appointed in accordance with Article 47(1) of Directive [*BRRD*].

Within 2 weeks from the date of submission of the business reorganisation plan, the resolution authority shall provide the Board with its assessment of the plan. Within 1 month from the date of submission of the business reorganisation plan the Board shall assess the likelihood that the plan, if implemented, restores the long term viability of the entity referred to Article 2. The assessment shall be completed in agreement with the competent authority.

Where the Board is satisfied that the plan would achieve that objective, it shall allow the national resolution authority to approve the plan in accordance with Article 47(5) of Directive [*BRRD*]. Where the Board is not satisfied that the plan would achieve that objective, it shall instruct the national resolution authority to notify the administrator of its concerns and require the administrator to amend the plan in way that addresses those concerns in accordance with Article 47(6) of Directive [*BRRD*]. This shall be done in agreement with the competent authority.

The national resolution authority shall forward to the Board the amended plan. The Board shall instruct the national resolution authority to notify the administrator within one week whether it is satisfied that the plan, as amended, addresses the concerns notified or whether further amendment is required.

Article 25
Monitoring by the Board

1. The Board shall closely monitor the execution of the resolution scheme by the national resolution authorities. For that purpose, the national resolution authorities shall:

(a) cooperate with and assist the Board in the performance of its monitoring duty;

(b) provide, at regular intervals established by the Board, accurate, reliable and complete information on the execution of the resolution scheme, the application of the resolution tools and the exercise of the resolution powers, that might be requested by the Board, including on the following:

(i) the operation and financial situation of the institution under resolution, the bridge institution and the asset management vehicle;

(ii) the treatment that shareholders and creditors would have received in the liquidation of the institution under normal insolvency proceedings;

(iii) any on-going court proceedings related to the liquidation of the assets of

failed institution, to challenges to the resolution decision and to the valuation or related to applications for compensation filed by the shareholders or creditors;

(iv) the appointment, removal or replacement of evaluators, administrators, accountants, lawyers and other professionals that may be necessary to assist the national resolution authority, and on the performance of their duties;

(v) any other matter that may be referred to by the Board;

(vi) the extent to which and manner in which the powers for the national resolution authorities listed in Chapter V ***of Title IV*** of Directive [*BRRD*] are exercised by them;

(vii) the economic viability, feasibility, and implementation of the business reorganisation plan provided for in Article 24(16).

The national resolution authorities shall submit to the Board a final report on the execution of the resolution scheme.

2. On the basis of the information provided, the Board may give instructions to the national resolution authorities as to any aspect of the execution of the resolution scheme, and in particular the elements referred to in Article 20 and to the exercise of the resolution powers.

3. Where this is necessary in order to achieve the resolution objectives, the Commission, following a recommendation of the Board ▌, may review its decision on the resolution framework and adopt the appropriate amendments.

Article 26
Implementation of resolution decisions

1. National resolution authorities shall take the necessary action to implement the resolution decision referred to in Article 16(8), in particular by exercising control over the entities referred to in Article 2, by taking the necessary measures in accordance with Article 64 of Directive [*BRRD*] and by ensuring that the safeguards provided for in that Directive [*BRRD*] are complied with. National resolution authorities shall implement all decisions addressed to them by the Board.

For these purposes, ***subject to this Regulation,*** they shall make use of their powers under national law transposing the Directive [*BRRD*] and in accordance with the conditions set out in national law. National resolution authorities shall fully inform the Board about the exercise of these powers. Any action they take shall comply with the decision referred to in Article 16(8).

2. Where a national resolution authority has not applied a decision referred to in Article 16, or has applied it in a way which fails to achieve the resolution objectives under this Regulation, the Board shall have the power to ***directly*** order an institution under

resolution ***to***:

(a) ▌transfer to another ***legal*** person specified rights, assets or liabilities of an institution under resolution;

(b) ▌require the conversion of ***any*** debt instruments which contain a contractual term for conversion in the circumstances provided for in Article 18.

The Board shall also have the power to exercise directly any other power provided for in Directive [BRRD].

3. The institution under resolution shall comply with any decision taken referred to in paragraph 2. Those decisions shall prevail over any previous decision adopted by the national authorities on the same matter.

4. When taking action in relation to issues which are subject to a decision taken pursuant to paragraph 2, national authorities shall comply with that decision.

Chapter 4

Cooperation

Article 27
Obligation to cooperate

1. The Board shall inform the Commission of any action it takes in order to prepare for resolution. With regard to any information received from the Board, the members of the Commission and Commission staff shall be subject to the professional secrecy requirement laid down in Article 79.

2. In the exercise of their respective responsibilities under this Regulation, the Board, the Commission, the ▌competent authorities and resolution authorities shall cooperate closely***, in particular in the resolution planning, early intervention and resolution phases pursuant to Articles 7 to 26***. ***They*** shall provide ***each other*** with all information necessary for the exercise of their tasks.

▌

4. For the purposes of this Regulation, where the ECB invites ***the Executive Director*** of the Board to participate ***as an observer*** in the Supervisory Board of the ECB established in accordance with Article 19 of *Regulation (EU)No 1024/2013*, the Board ***may*** appoint ***another*** representative ***to participate***.

5. For the purposes of this Regulation, the Board shall appoint a representative which shall participate in the Resolution Committee of the European Banking Authority established in accordance with Article 113 of Directive [*BRRD*].

6. The Board shall co-operate closely with the European Financial Stability Facility (EFSF)***,*** the European Stability Mechanism (ESM) ***and any similar European entity***

in future, in particular where the EFSF***,*** ▌the ESM ***or any similar European entity in future*** have granted or are likely to grant, direct or indirect financial assistance to entities established in a participating Member State, in particular in those extraordinary circumstances referred to in Article 24(9).

7. The Board and the ECB shall conclude a memorandum of understanding describing the general terms how they will cooperate under paragraph 2. The memorandum shall be reviewed on a regular basis and shall be published subject to appropriate treatment of confidential information.

7a. The Board and the resolution authorities of the non-participating Member States shall conclude memoranda of understanding describing in general terms how they will cooperate with one another in the performance of their tasks under Directive [BRRD].

Without prejudice to the first subparagraph the Board shall conclude a memorandum of understanding with the resolution authority of each non-participating Member State that is home to at least one global systemically important institution, identified as such pursuant to Article 131 of Directive 2013/36/EU.

Each memorandum shall be reviewed on a regular basis and shall be published subject to appropriate treatment of confidential information.

Article 28
Information exchange within the SRM

1. Both the Board and the national resolution authorities shall be subject to a duty of cooperation in good faith and an obligation to exchange information.

2. The Board shall provide the Commission with any information relevant for fulfilling its tasks under this Regulation and, where applicable, Article 107 of the TFEU.

Article 29
Cooperation within the SRM and group treatment

Paragraphs 4, 5, 6 and 15 of Articles 12 and Articles 80 to 83 in Directive [*BRRD*] shall not apply to relations between national resolution authorities of participating Member States. The relevant provisions of this Regulation shall apply instead.

Article 30
Cooperation with non-participating Member States

Where a group includes entities established in participating Member States as well as in non-participating Member States, without prejudice to ▌this Regulation, the Board shall represent the national resolution authorities of the participating Member States, for the purposes of cooperation with non-participating Member States in accordance with Articles 7, 8, 11, 12, 15, 50, and 80 to 83 of Directive [*BRRD*].

Article 31
Cooperation with third country authorities

The Commission and the Board within each of their respective responsibilities shall be exclusively responsible to conclude, on behalf of the national resolution authorities of participating Member States, the non-binding cooperation arrangements referred to in Article 88 (4) of Directive [*BRRD*] and shall notify them in accordance with paragraph 6 of that Article.

Chapter 5

Investigatory powers

Article 32
Requests for information

1. For the purpose of exercising the tasks referred to in ***this Regulation***, the Board may, either directly or through the national resolution authorities, ***making full use of all information available to the ECB or to the national competent authorities,*** require the following legal or natural persons to provide all information that is necessary in order to carry out the tasks conferred upon it by this Regulation:

   (a) the entities referred to in Article 2;

   (b) employees of the entities referred to in Article 2;

   (c) third parties to whom the entities referred to in Article 2 have outsourced functions or activities.

2. The entities ▌and ▌persons referred to in ▌paragraph 1 shall supply the information requested pursuant to paragraph 1. Professional secrecy provisions shall not exempt those entities and persons from the duty to provide that information. The supply of the information requested shall not be deemed to be a breach of professional secrecy.

3. Where the Board obtains information directly from those entities and persons, it shall make that information available to the national resolution authorities concerned.

4. The Board shall be able to obtain on a continuous basis any information ***necessary for the exercise of its functions under this Regulation, in particular*** on capital, liquidity, assets and liabilities concerning any institution subject to its resolution powers ▌.

5. The Board, the competent authorities and the national resolution authorities may draw up memorandum of understanding with a procedure concerning the exchange of information. ***The exchange of information between the Board, the competent authorities and the national resolution authorities shall not be deemed to be a breach of professional secrecy.***

6. Competent authorities, including the ECB where relevant, and national resolution authorities shall cooperate with the Board in order to verify whether some or all of the

information requested is already available. Where such information is available, competent authorities, including the ECB where relevant, or national resolution authorities shall provide that information to the Board.

Article 33
General investigations

1. For the purpose of exercising the tasks referred to in ***this Regulation***, and subject to any other conditions set out in relevant Union law, the Board may conduct all necessary investigations of any person referred to in Article 32(1) established or located in a participating Member State.

   To that end, the Board shall have the right to:

   (a) require the submission of documents;

   (b) examine the books and records of the persons referred to in Article 32(1) and take copies or extracts from such books and records;

   (c) obtain written or oral explanations from any person referred to in Article 32(1) or their representatives or staff;

   (d) interview any other person who consents to be interviewed for the purpose of collecting information relating to the subject matter of an investigation**.**

2. The persons referred to in Article 32(1) shall be subject to investigations launched on the basis of a decision of the Board.

   When a person obstructs the conduct of the investigation, the national resolution authorities of the participating Member State where the relevant premises are located shall afford, in compliance with national law, the necessary assistance including facilitating the access by the Board to the business premises of the legal persons referred to in Article 32(1), so that the aforementioned rights can be exercised.

Article 34
On-site inspections

1. For the purpose of exercising the tasks referred to in ***this Regulation***, and subject to other conditions set out in relevant Union law, the Board may, subject to prior notification to the national resolution authorities ***and the competent authorities*** concerned, conduct all necessary on-site inspections at the business premises of the legal persons referred to in Article 32(1). ***In addition, prior to exercising the powers referred to in Article 11, the Board shall consult the competent authority.*** Where the proper conduct and efficiency of the inspection so require, the Board may carry out the on-site inspection without prior announcement to those legal persons.

2. The officials of and other persons authorised by the Board to conduct an on-site inspection may enter any business premises and land of the legal persons subject to an investigation decision adopted by the Board pursuant to ***Article 33(2)*** and shall have

all the powers stipulated in ***Article 33(1)***.

3. The legal persons referred to in Article 32(1) shall be subject to on-site inspections on the basis of a decision of the Board.

4. Officials and other accompanying persons authorised or appointed by the national resolution authorities of the Member States where the inspection is to be conducted shall**,** under the supervision and coordination of the Board, actively assist the officials of and other persons authorised by the Board. To that end, they shall enjoy the powers set out in paragraph 2. Officials of the national resolution authorities of the participating Member States concerned shall also have the right to participate in the on-site inspections.

5. Where the officials of and other accompanying persons authorised or appointed by the Board find that a person opposes an inspection ordered pursuant to paragraph 1, the national resolution authorities of the participating Member States concerned shall afford them the necessary assistance in accordance with national law. To the extent necessary for the inspection, this assistance shall include the sealing of any business premises and books or records. Where that power is not available to the national resolution authorities concerned, it shall use its powers to request the necessary assistance of other ▌national ▌authorities.

Article 35
Authorization by a judicial authority

1. If an on-site inspection provided for in Article 34(1) and (2) or the assistance provided for in Article 34(5) requires authorisation by a judicial authority according to national rules, such authorisation shall be applied for.

2. Where authorisation as referred to in paragraph 1 is applied for, the national judicial authority shall***, promptly and without delay,*** control that the decision of the Board is authentic and that the coercive measures envisaged are neither arbitrary nor excessive having regard to the subject matter of the inspection. In its control of the proportionality of the coercive measures, the national judicial authority may ask the Board for detailed explanations, in particular relating to the grounds the Board has for suspecting that an infringement of the acts referred to in Article 26 has taken place and the seriousness of the suspected infringement and the nature of the involvement of the person subject to the coercive measures. However, the national judicial authority shall not review the necessity for the inspection or demand to be provided with the information on the Board's file. The lawfulness of the Board's decision shall be subject to review only by the Court of Justice of the European Union.

Chapter 6

Penalties

Article 36
Power to impose administrative penalties

1. Where the Board finds that an entity referred to in Article 2 intentionally or negligently committed one of the infringements referred to in paragraph 2, the Board shall instruct the national resolution authority concerned to impose ***an administrative penalty*** in respect of the relevant entity referred to in Article 2 in accordance with Directive [*BRRD*].

   An infringement by such an entity shall be considered to have been committed intentionally if there are objective factors which demonstrate that the entity or its senior management acted deliberately to commit the infringement.

2. The ***administrative penalties*** may be imposed on entities referred to in Article 2 for the following infringements:

   (a) Where they do not supply the information requested in accordance with Article 32;

   (b) Where they do not submit to a general investigation in accordance with Article 33 or an on-site inspection ***in accordance with Article 34***;

   (c) Where they do not contribute to the Fund in accordance with Articles 66 or 67;

   (d) Where they do not comply with a decision addressed to them by the Board pursuant to ***Article 26***.

3. The national resolution authorities shall publish any ***administrative penalties*** imposed pursuant to paragraph 1. Where publication would cause a disproportionate damage to the parties involved, the national resolution authorities shall publish the ***penalty*** without revealing the identity of the parties.

4. The Board shall, with a view to establishing consistent, efficient and effective enforcement practices, and to ensuring the common, uniform and consistent application of this Regulation, issue guidelines on the application of ***administrative penalties*** and periodic penalty payments addressed to the national resolution authorities.

Article 37
Periodic penalty payments

1. The Board shall instruct the national resolution authority concerned to impose a periodic penalty payment in respect of the relevant entity referred to in Article 2 ▌in order to compel:

(a) ***an entity referred to in Article 2*** to comply with a decision adopted under Article 32;

(b) a person referred to in Article 32(1) to supply complete information which has been required by a decision pursuant to that Article;

(c) a person referred to in Article 33(1) to submit to an investigation and in particular to produce complete records, data, procedures or any other material required and to complete and correct other information provided in an investigation launched by a decision taken pursuant to that Article;

(d) a person referred to in Article 34(1) to submit to an on-site inspection ordered by a decision taken pursuant to that Article.

2. A periodic penalty payment shall be effective and proportionate. The periodic penalty payment shall be imposed on a daily basis until the ***entity referred to in Article 2*** or person concerned complies with the relevant decisions referred to in points (a) to (d) of paragraph 1.

3. A periodic penalty payment may be imposed for a period of no more than six months.

PART III
INSTITUTIONAL FRAMEWORK

TITLE I

THE BOARD

Article 38
Legal status

1. A Single Resolution Board is hereby established. The Board shall be a European Union agency with a specific structure corresponding to its tasks. It shall have legal personality.

2. The Board shall enjoy in each Member State the most extensive legal capacity accorded to legal persons under national law. The Board may, in particular, acquire or dispose of movable and immovable property and be a party to legal proceedings.

3. The Board shall be represented by its Executive Director.

Article 39

Composition

1. The Board shall be composed of:

   (a) the Executive Director***, with voting rights***;

   (b) the Deputy Executive Director***, with voting rights***;

   (c) a member appointed by the Commission***, with voting rights***;

   (d) a member appointed by the ECB***, with voting rights***;

   (e) a member appointed by each participating Member State, representing the national resolution authority***, with voting rights in accordance with Articles 48 and 51;***

   (ea) a member appointed by EBA, participating as observer, without voting rights.

2. The term of office of the Executive Director, the Deputy Executive Director and of the members of the Board appointed by the Commission and the ECB shall be five years. Subject to ***Article 52(6)***, that term shall not be renewable.

3. The Board's administrative and management structure shall comprise:

   (a) a plenary session of the Board, which shall exercise the tasks set out in ***Article***

46;

(b) an executive session of the Board, which shall exercise the tasks set out in ***Article 50***;

(c) an Executive Director, which shall exercise the tasks set out in ***Article 52***.

Article 40
Compliance with Union law

The Board shall act in compliance with Union law, in particular with the Commission decisions pursuant to this Regulation.

Article 41
Accountability

1. The Board shall be accountable to the European Parliament, the Council and the Commission for the implementation of this Regulation, in accordance with paragraphs 2 to 8.

2. The Board shall submit each year a report to the European Parliament, the Council, the Commission and the European Court of Auditors on the execution of the tasks conferred upon it by this Regulation. ***Subject to the requirements on professional secrecy, that report shall be published on the Board's website.***

3. The Executive Director shall present that report in public to the European Parliament, and to the Council.

4. At the request of the European Parliament, the Executive Director shall participate in a hearing on the execution of its resolution tasks by the competent committees of the Parliament. ***A hearing shall take place at least once every calendar year.***

4a. At the request of the European Parliament, the Deputy Executive Director shall participate in a hearing on the execution of its resolution tasks by the competent committees of the Parliament.

5. The Executive Director may, at the request of the Council, be heard on the execution of its resolution tasks by the Council.

6. The Board shall reply orally or in writing to questions addressed to it by the European Parliament or by the Council, according to its own procedures ***as promptly as possible, and in any event within five weeks of ttransmission***.

7. Upon request, the Executive Director shall hold confidential oral discussions behind closed doors with the Chair and ***Vice-***Chairs of the competent committee of the European Parliament where such discussions are required for the exercise of the European Parliament's powers under the Treaty. An agreement shall be concluded between the European Parliament and the Board on the detailed modalities of organising such discussions, with a view to ensuring full confidentiality in accordance with the confidentiality obligations imposed ***by this Regulation and by Article 76 of***

Directive [BRRD] on the ***Board acting*** as a ***national resolution*** authority ***as referred to in Article 5 of this Regulation***.

8. During any investigations by the Parliament, the Board shall cooperate with the Parliament, subject to the TFEU. The Board and the *European* Parliament shall conclude ***by 1 March 2015*** appropriate arrangements on the practical modalities of the exercise of democratic accountability and oversight over the exercise of the tasks conferred on the Board by this Regulation. Those arrangements shall cover, inter alia, access to information, cooperation in investigations and information on the selection procedure of the Executive Director ***and the Deputy Executive Director. Those arrangements shall have a similar scope to that of the Interinstitutional Agreement (IIA) between the European Parliament and the ECBconcluded pursuant to Article 20(9) of Regulation (EU) No 1024/2013***.

Those arrangements shall include an agreement between the Board and the European Parliament on the principles and procedures for the classification, transmission to Parliament and delayed public disclosure of confidential information other than those covered by the IIA concluded pursuant to Article 20(9) of Regulation (EU) No 1024/2013.

Article 42
National Parliaments

-1. When submitting the report provided for in Article 41(2), the Board shall simultaneously forward that report directly to the national parliaments of the participating Member States.

National parliaments may address to the Board their reasoned observations on that report.

1. Due to the specific tasks of the Board, national Parliaments of the participating Member States, through their own procedures, may request the Board to reply in writing to any observations or questions submitted by them to the Board in respect of the functions of the Board under this Regulation.

2. The national Parliament of a participating Member State may invite the Executive Director to participate in an exchange of views in relation to the resolution of ***entities referred to in Article 2*** in that Member State together with a representative of the national resolution authority.

3. This Regulation shall be without prejudice to the accountability of national resolution authorities to national Parliaments in accordance with national law for the performance of tasks not conferred on the Board or on the Commission by this Regulation.

Article 43
Independence

1. When carrying out the tasks conferred upon it by this Regulation, the Board and the

national resolution authorities shall act independently and in the general interest.

2. The members of the Board referred to in ***Article 39(2)*** shall act independently and objectively in the interest of the Union as a whole and shall neither seek nor take instructions from the Union's institutions or bodies, from any Government of a Member State or from any other public or private body.

Article 43a
General principles applicable to the Board

The Board shall be subject to the following principles:

(a) it shall act independently, in accordance with Article 43;

(b) its members shall have the necessary expertise on bank restructuring and insolvency;

(c) it shall have the capacity to deal with large banking groups;

(d) it shall have the capacity to act swiftly and impartially;

(e) it shall ensure that appropriate account is taken of national financial stability, financial stability of the Union and the internal market; and

(f) it shall be accountable to the European Parliament and the Council, in accordance with Article 41.

Article 44
Seat

The Board shall have its seat in Brussels, Belgium.

TITLE II

PLENARY SESSION OF THE BOARD

Article 45
Participation in plenary sessions

All members of the Board shall participate in its plenary sessions.

Article 46
Tasks

1. In its plenary session, the Board shall:

(a) adopt, by 30 November of each year, the Board's annual work programme for the coming year ▌, based on a draft put forward by the Executive Director and shall transmit it for information to the European Parliament, the Council, the

Commission, and the *ECB*; ***the implementation of which is to be monitored and controlled by the Board in its plenary session;***

(b) adopt***, monitor and control,*** the annual budget of the Board in accordance with ***Article 58(2)***;

(ba) issue opinions and recommendations on the draft report of the Executive Director mentioned in Article 52(2)(g);

(c) decide on the voluntary borrowing between financing arrangements in accordance with Article 68, the mutualisation of national financing arrangements in accordance with Article 72 and on the lending to deposit guarantee scheme in accordance with ***Article 73(4)***;

(d) adopt ***the*** annual activity report on the Board's activities referred to in ***Article 41, which is to*** present detailed explanations on the implementation of the budget;

(e) adopt the financial rules applicable to the Board in accordance with Article 61;

(f) adopt an anti-fraud strategy, proportionate to fraud risks taking into account the costs and benefits of the measures to be implemented;

(g) adopt rules for the prevention and management of conflicts of interest in respect of its members;

(h) adopt its rules of procedure;

(i) in accordance with paragraph 2, exercise, with respect to the staff of the Board, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority Empowered to Conclude a Contract of Employment[1] ("the appointing authority powers");

(j) adopt appropriate implementing rules for giving effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations;

(k) appoint an Accounting Officer, subject to the Staff Regulations and the Conditions of Employment of Other Servants, who shall be functionally independent in the performance of his/her duties;

(l) ensure adequate follow-up to findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of the European Anti-fraud Office (OLAF);

(m) take all the decisions on the establishment of the Board's internal structures and, where necessary, their modification.

1

2. In its plenary session, the Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment of Other Servants, delegating relevant appointing authority powers to the Executive Director and defining the conditions under which the delegation of powers can be suspended. The Executive Director shall be authorised to sub-delegate those powers.

Where exceptional circumstances so require, the Board in its plenary session may by way of a decision temporarily suspend the delegation of the appointing authority powers to the Executive Director and those sub-delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director.

Article 47
Meeting of the plenary session of the Board

1. The Executive Director shall convene meetings of the plenary session of the Board.

2. The Board in its plenary session shall hold at least two ordinary meetings a year. In addition, it shall meet on the initiative of the Executive Director, at the request of the Commission, or at the request of at least one-third of its members.

3. The Board in its plenary session may invite observers to attend its meetings on an ad hoc basis. ***In particular, upon request, the Board may invite a representative of the ESM to participate as observer.***

4. The Board shall provide for the secretariat of the plenary session of the Board.

Article 48
Decision-making process

1. The Board, in its plenary session, shall take its decisions by a simple majority of its members ***referred to in Article 39(1)(a) to (e)***. However, decisions referred to in point (c) of ***Article 46(1)*** shall be taken by a majority of two-thirds of ***those*** members.

2. The Executive Director shall take part in the voting.

3. The Board shall adopt and make public its rules of procedure. The rules of procedure shall establish more detailed voting arrangements, in particular the circumstances in which a member may act on behalf of another member and including, where appropriate, the rules governing quorums.

TITLE III

EXECUTIVE SESSION OF THE BOARD

Article 49
Participation in the executive sessions

1. ***The*** members of the Board referred to in ***Article 39(1)(a)*** to (d) shall participate in the executive sessions of the Board.

2. When deliberating on an entity referred to in Article 2 or a group of entities established only in one participating Member State, the member appointed by that Member State shall also participate in the deliberations and in the decision-making process in accordance with ***Article 51(1)***.

3. When deliberating on a cross-border group the member appointed by the Member State in which the group level resolution authority is situated, as well as the members appointed by the Member States in which a subsidiary or entity covered by consolidated supervision is established, shall ***also*** participate in the deliberations and in the decision-making process in accordance with ***Article 51(2)***.

3a. The members of the Board referred to in Article 39(1)(a) to (d) shall ensure that the resolution decisions and actions, in particular with regard to the use of the Fund, across the different formations of the executive sessions of the Board are coherent, appropriate and proportionate.

Article 50
Tasks

1. The Board, in its plenary session, shall be assisted by an executive session of the Board.

2. The Board, in its executive session, shall:

   (a) prepare ***all*** decisions to be adopted by the Board in its plenary session;

   (b) take all decisions to implement this Regulation.

   This includes:

   (-i) preparing, assessing and approving resolution plans in accordance with Articles 7 to 9;

   (-ia) determining the minimum requirement for own funds and eligible liabilities that institutions and parent undertakings need to maintain in accordance with Article 10;

   (i) providing the Commission, as early as possible, with ***a draft decision in accordance with Article 16 accompanied by all*** relevant information

allowing the Commission to assess and take an reasoned decision pursuant to Article 16(6);

(ii) deciding upon the Board's part II of the budget on the Fund.

3. When necessary, because of urgency, the Board, in its executive session may take certain provisional decisions on behalf of the Board in its plenary session, in particular on administrative management matters, including budgetary matters.

4. The Board, in its executive session, shall meet on the initiative of the Executive Director or at the request of ***any of*** its members.

5. The Board, in its plenary session, shall lay down the rules of procedure of the Board in its executive session.

Article 51
Decision-making

1. When deliberating on an individual entity or a group established only in one participating Member State, the Board ▌in its executive sessions ***shall strive for consensus. In the absence of consensus, the Board shall take its decisions*** by a simple majority of ***the voting members referred to in Article 39(1)(a) to (d) and the*** participating members ***referred to in Article 49(2)***. In case of a tie the Executive Director shall have a casting vote.

2. When deliberating on a cross-border group, the Board ▌in its executive sessions ***shall strive for consensus. In the absence of consensus,*** the Board shall take its decisions by a simple majority of ***the voting members referred to in Article 39(1) (a) to (d) and the*** participating members ***referred to in Article 49(3)***. The members of the Board referred to in ***Article 39(1)(a) to (d)*** and the member appointed by the Member State in which the group level resolution authority is situated shall each have one vote. The ***national resolution authority of each participating Member State in which a subsidiary or entity covered by consolidated supervision is established*** shall each have a voting right equal to a fraction of one vote. In case of a tie the Executive Director shall have a casting vote.

▌

3. The Board, in its executive session, shall adopt and make public the rules of procedure for its executive sessions.

Meetings of the Board in its executive session shall be convened by the Executive Director on his own initiative or upon request of ***any of its*** members, and shall be chaired by the Executive Director. The Board ***in its executive session*** may invite observers to attend its ***meetings*** on an ad hoc basis. ***In particular, upon request, the Board may invite a representative of the ESM to participate as observer.***

TITLE IV

EXECUTIVE DIRECTOR AND DEPUTY EXECUTIVE DIRECTOR

Article 52
Appointment and tasks

1. The Board shall be headed by a full-time Executive Director who shall not hold any offices at national level.

2. The Executive Director shall be responsible for:

   (a) preparing the work of the Board, in its plenary and executive sessions, and convening and chairing its meetings;

   (b) all staff matters;

   (c) matters of day-to-day administration;

   (d) implementation of the budget of the Board, in accordance with ***Article 58(3);***

   (e) the management of the Board;

   (f) the implementation of the annual work programme of the Board;

   (g) ***the preparation,*** each year ***, of*** a draft report with a section on the resolution activities of the Board and a section on financial and administrative matters.

3. The Executive Director shall be assisted by a Deputy Executive Director.

   The Deputy Executive Director shall carry out the functions of the Executive Director in his absence.

4. The Executive Director and the Deputy Executive Director shall be appointed on the basis of merit, skills, knowledge of banking and financial matters, of experience relevant to financial supervision and regulation.

   The Executive Director and the Deputy Director shall be chosen on the basis of an open selection procedure, which shall respect the principle of gender balance, of which the European Parliament and the Council shall be kept duly informed.

5. ***The Commission shall provide the competent committee of the European Parliament with the shortlist of candidates for the positions of Executive Director and Deputy Executive Director.***

   The Commission shall submit a proposal for the appointment of the Executive Director and the Deputy Executive Director ***to the European Parliament for approval***. ***Following the approval of that proposal,*** the Council shall ***adopt an implementing decision to*** appoint the Executive Director and the Deputy Executive

Director ▌.

6. By derogation from ***Article 39(2)***, the term of office of the first Deputy Executive Director appointed after the entry into force of this Regulation shall be three years; this term is renewable once for a period of five years. The Executive Director and the Deputy Executive Director shall remain in office until their successors are appointed.

7. ***A*** Deputy Executive Director whose term of office has been extended shall not participate in another selection procedure for the same post at the end of the overall period.

8. If the Executive Director or the Deputy Executive Director no longer fulfil the conditions required for the performance of their duties or have been guilty of serious misconduct, the Council may, on a proposal from the Commission ***which has been approved by*** the European Parliament, ***adopt an implementing decision to*** remove the Executive Director or the Deputy Executive Director from office.

For those purposes, the European Parliament or the Council may inform the Commission that they consider that the conditions for the removal of the Executive Director or the Deputy Executive Director from office are fulfilled, to which the Commission shall respond.

Article 53
Independence

1. The Executive Director and the Deputy Executive Director shall exercise their tasks in conformity with the decisions of the Commission and of the Board.

When taking part in the deliberations and decision-making processes within the Board, the Executive Director and the Deputy Executive Director shall neither seek nor take instructions from the Union institutions or bodies, but express their own views and vote independently. In those deliberations and decision-making processes the Deputy Executive Director shall not be under the authority of the Executive Director.

2. Neither Member States nor any other public or private body shall seek to influence the Executive Director and the Deputy Executive Director in the performance of their tasks.

3. In accordance with the Staff Regulations referred to in Article 78(6), the Executive Director and the Deputy Executive Director shall, after leaving service, continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits.

TITLE V

FINANCIAL PROVISIONS

Chapter 1

General provisions

Article 54
Resources

The Board shall be responsible for devoting the necessary financial and human resources to the exercise of the tasks conferred upon it by this Regulation.

Article 55
Budget

1. Estimates of all the Board's revenue and expenditure shall be prepared for each financial year, corresponding to the calendar year, and shall be shown in the Board's budget.

2. The Board's budget shall be balanced in terms of revenue and expenditure.

3. The budget shall comprise two parts: Part I for the administration of the Board and Part II for the Fund.

Article 56
Part I of the budget on the administration of the Board

1. The revenues of Part I of the budget shall consist of the annual contributions necessary to cover the ***annual estimated*** administrative expenditure in accordance with Article 62(1) (a).

2. The expenditure of Part I of the budget shall include at least staff, remuneration, administrative, infrastructure, professional training and operational expenses.

Article 57
Part II of the budget on the Fund

1. The revenues of Part II of the budget shall consist, in particular, of the following:

   (a) contributions paid by institutions established in the participating Member States in accordance with Article 62 except for the annual contribution***s*** referred to in Article 62(1)(a);

   (b) loans received from other resolution financing arrangements in non-participating Member States in accordance with Article 68(1);

(c) loans received from financial institutions or other third parties in accordance with Article 69***, including within the framework of the loan facility referred to in that Article***;

(d) returns on the investments of the amounts held in the Fund in accordance with Article 70.

2. The expenditure of Part II of the budget shall consist of the following:

(a) expenses for the purposes indicated in Article 71;

(b) investments in accordance with Article 70;

(c) interest paid on loans received from other resolution financing arrangements in non-participating Member States in accordance with Article 68(1);

(d) interest paid on loans received from financial institutions or other third parties in accordance with Article 69***, including within the framework of the loan facility referred to in that Article***.

Article 58
Establishment and implementation of the budget

1. By 15 February each year, the Executive Director shall draw up an estimate of the Board's revenue and expenditure for the following year and shall send it to the Board, in its plenary session, for approval, not later than 31 March each year.

2. The budget of the Board shall be adopted by the plenary session of the Board on the basis of the statement of estimates. Where necessary, it shall be adjusted accordingly**,** ***following its monitoring and control by the Board in its plenary session***.

3. The Executive Director shall implement the Board’s budget.

Article 59
Audit and control

1. An internal audit function shall be set up within the Board, to be performed in compliance with the relevant international standards. The internal auditor, appointed by the Board, shall be responsible to it for verifying the proper operation of budget implementation systems and procedures of the Board.

2. The internal auditor shall advise the Board on dealing with risks, by issuing independent opinions on the quality of management and control systems and by issuing recommendations for improving the conditions of implementation of operations and promoting sound financial management.

3. The responsibility for putting in place internal control systems and procedures suitable for carrying out his tasks shall lie with the Board.

Article 60
Presentation of accounts and discharge

1. The Executive Director shall act as authorising officer.

2. By 1 March of the following financial year, the Board's Accounting Officer shall send the provisional accounts to the ***Board***.

3. By 31 March of each year the Board, in its executive session, shall transmit to the European Parliament, the Council, the Commission, and the Court of Auditors ▌the Board's provisional accounts for the preceding financial year.

4. On receipt of the Court of Auditors' observations on the Board's provisional accounts, the Executive Director shall draw up the Board's final accounts under his/her own responsibility and shall send them to the Board in its plenary session, for approval.

5. The Executive Director shall, by 1 July following each financial year, ▌send the final accounts to the European Parliament, the Council, the Commission, and the Court of Auditors.

6. The Executive Director shall send the Court of Auditors a reply to its observations by***1 July***.

7. The final accounts shall be published in the Official Journal of the European Union by 15 November of the following year.

8. The Board, in its plenary session, shall give discharge to the Executive Director in respect of the implementation of the budget.

9. The Executive Director shall submit to the European Parliament, at the latter's request, any information required in relation to the Board's accounts.

9a. Following consideration of the final accounts prepared by the Board pursuant to this Article, the Court of Auditors shall prepare a report on its findings and shall submit the report to the European Parliament and to the Council by 1 December following each financial year.

9b. The Court of Auditors shall, in particular, report on:

(a) the economy, efficiency and effectiveness with which funds, including from the Fund, have been used;

(b) any contingent liabilities, whether for the Board, the Commission or otherwise, arising as a result of the performance by the Commission and the Board of their tasks under this Regulation.

Article 61
Financial rules

The Board shall, after consulting the Court of Auditors of the Union and the Commission,

adopt internal financial provisions specifying, in particular, the procedure for establishing and implementing its budget.

As far as is compatible with the particular nature of the Board, the financial provisions shall be based on the framework financial Regulation adopted for bodies set up under the TFEU in accordance with Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union.[1]

Article 62
Contributions

1. Entities referred to in Article 2 shall contribute to the budget of the Board in accordance with this Regulation and the delegated acts on contributions adopted pursuant to paragraph 5. The contributions shall comprise the following:

   (a) annual contributions necessary to cover the administrative expenditures;

   (b) annual ex-ante contributions necessary to reach the target funding level of the Fund specified in Article 65, calculated in accordance with Article 66;

   (c) extraordinary ex post contributions, calculated in accordance with Article 67.

2. The amounts of the contributions shall be fixed at such a level as to ensure that the revenue in respect thereof is in principle sufficient for the budget of the Board to be balanced each year and for the missions of the Fund.

3. The Board shall determine, ***after consulting the competent authority,*** in accordance with the delegated acts referred to in paragraph 5, the contributions due by each entity referred to in Article 2 in a decision addressed to the entity concerned. The Board shall apply procedural, reporting and other rules ensuring that contributions are fully and timely paid.

4. The amounts raised in accordance with paragraphs 1, 2, 3 shall only be used for the purposes of this Regulation.

5. The Commission shall be empowered to adopt delegated acts on contributions in accordance with Article 82 in order to:

   (a) determine the type of contributions and the matters for which contributions are due, the manner in which the amount of the contributions is calculated, the way in which they are to be paid;

   (b) specify registration, accounting, reporting and other rules referred to in paragraph 3 necessary to ensure that the contributions are fully and timely paid;

   (c) determine the contribution system for institutions that have been authorized to

[1] OJ L 298, 26.10.2012. p. 1.

operate after the Fund has reached its target level;

(d) determine the annual contributions necessary to cover the administrative expenditure of the Board before it becomes fully operational.

Article 63
Anti-fraud measures

1. In order to facilitate combating fraud, corruption and any other unlawful activity under Regulation (EC) No 1073/1999, within six months from the day the Board becomes operational, it shall accede to the Interinstitutional Agreement of 25 May 1999 concerning internal investigations by European Anti-fraud Office OLAF and adopt appropriate provisions applicable to all staff of the Board using the template set out in the Annex to that Agreement.

2. The European Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over the beneficiaries, contractors and subcontractors who have received ▌funds from the Board.

3. OLAF may carry out investigations, including on-the-spot checks and inspections with a view to establishing whether there has been fraud, corruption or other illegal activity affecting the financial interests of the Union in connection with a contract funded by the Board in accordance with the provisions and procedures laid down in Regulation (EC) No 1073/1999 and Regulation (Euratom, EC) No 2185/96.

Chapter 2

The Single Bank Resolution Fund

SECTION 1

CONSTITUTION OF THE FUND

Article 64
General provisions

1. The Single Bank Resolution Fund is hereby established.

2. The Board shall use the Fund only for the purpose of ensuring the efficient implementation of the resolution tools and powers ▌and in accordance with the resolution objectives and the principles governing resolution ▌. Under no circumstances shall the Union budget ***or the national budgets of Member States*** be held liable for expenses or losses of the Fund ***or for any liability of the Board***.

3. The owner of the Fund shall be the Board.

Article 65
Target funding level

1. In a period no longer than 10 years after the entry into force of this Regulation, the available financial means of the Fund shall reach at least ***the percentage*** of the amount of deposits of all credit institutions authorised in the participating Member States which are guaranteed under Directive *[DGS]* ***and in accordance with Article 93(1) of Directive [BRRD]***.

2. During the initial period of time referred to in paragraph 1, contributions to the Fund calculated in accordance with Article 66, and raised in accordance with Article 62 shall be spread out in time as evenly as possible until the target level is reached unless, depending on the circumstances, they can be advanced in consideration of the favourable market conditions or the funding needs.

3. The Board may extend the initial period of time for a maximum of four years in case the Fund makes cumulated disbursements superior to ***the percentage provided for in Article 93(2) of Directive [BRRD]*** of the total amount referred to in paragraph 1.

4. If, after the initial period of time referred to in paragraph 1, the available financial means diminish below the target level specified in paragraph 1, contributions calculated in accordance with Article 66 shall be raised until the target level is reached. Where the available financial means amount to less than half of the target level, the annual contributions shall ▌be ***established in accordance with Article 93(3) of Directive [BRRD]***. 5. The Commission shall be empowered to adopt delegated acts in accordance with Article 82 to specify the following:

   (a) criteria for the spreading out in time of the contributions to the Fund calculated under paragraph 2;

   (b) circumstances under which the payment of contributions may be advanced under paragraph 2;

   (c) criteria for determining the number of years by which the initial period referred to in paragraph 1 can be extended under paragraph 3;

   (d) criteria for establishing the annual contributions provided for in paragraph 4.

Article 66
Ex-ante Contributions

1. The individual contribution of each institution shall be raised at least annually and shall be calculated pro-rata to the amount of its liabilities excluding own funds and covered deposits, with respect to the total liabilities, excluding own funds and covered deposits, of all the institutions authorised in the territories of the participating Member States.

   It shall be adjusted in proportion to the risk profile of each institution, in accordance with the criteria specified in the delegated acts referred to in Article 94(7) of Directive [*BRRD*].

2. The available financial means to be taken into account in order to reach the target funding level specified in Article 65 may include ***cash, near-cash equivalents, assets eligible as high quality liquid assets under the liquidity coverage ratio or*** payment commitments which are fully backed by collateral of low risk assets unencumbered by any third party rights, at the free disposal and earmarked for the exclusive use by the Board for the purposes specified in Article 71(1). The share of these irrevocable payment commitments shall not exceed ***the percentage provided for in Article 94(3) of Directive [BRRD]*** of the total amount of contributions raised in accordance with paragraph 1.

2a. The individual contributions of each institution referred to in paragraph 1 shall be definitive and shall, under no circumstances. be reimbursed retroactively.

2b. Where participating Member States have already established national resolution financing arrangements, they may provide that the national resolution financing arrangements use their available financial means, collected from institutions in the past by way of ex-ante contributions, to compensate institutions for the ex-ante contributions which those institutions may be required to pay into the Fund. Such restitution shall be without prejudice to the obligations of Member States under Directive 94/18/EC of the European Parliament and of the Council[1].

3. ***Subject to the second subparagraph of paragraph 1, the*** Commission shall be empowered to adopt delegated acts in accordance with Article 82 to specify the following:

(a) The method of calculation of individual contributions referred to in paragraph 1;

(b) the quality of the collateral backing the payment commitments in paragraph 2;

(c) the criteria for the calculation of the share of payment commitments referred to in paragraph 2.

Article 67
Extraordinary ex post contributions

1. Where the available financial means are not sufficient to cover the losses, costs or other expenses incurred by the use of the Fund, the Board shall raise in accordance with Article 62 extraordinary ex post contributions from the institutions authorised in the territories of participating Member States, in order to cover the additional amounts. These extraordinary contributions shall be allocated between institutions in accordance with the rules set out in Article 66 ***and in accordance with Article 95(1) of Directive [BRRD]***.

---

[1] ***Directive 94/18/EC of the European Parliament and of the Council of 30 May 1994 amending Directive 80/390/EEC coordinating the requirements for the drawing up, scrutiny and distribution of the listing particulars to be published for the admission of securities to official stock-exchange listing, with regard to the obligation to publish listing particulars (OJ L 135, 31.5.1994, p. 1).***

2. The Board may entirely or partially exempt in accordance with the delegated acts referred to in paragraph 3, an institution from the obligation to pay ex post contributions in accordance with paragraph 1 if the sum of payments referred to in Article 66 and in paragraph 1 of this Article would jeopardize the settlement of claims of other creditors against it. Such exemption shall not be granted for a longer period than 6 months but may be renewed on request of the institution.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 82 to specify the circumstances and conditions under which an entity referred to in Article 2 may be partially or entirely exempted from ex post contributions under paragraph 2.

Article 68
Voluntary borrowing between financing arrangements

1. The Board may make a request to borrow for the Fund from all other resolution financing arrangements within non-participating Member States, in the event that:

   (a) the amounts raised under Article 66 are not sufficient to cover the losses, costs or other expenses incurred by the use of the Fund;

   (b) the extraordinary ex post contributions foreseen in Article 67 are not immediately accessible**.**

▌

2. Those resolution financing arrangements shall decide on such a request in accordance with Article 97 of Directive [*BRRD*]. The borrowing conditions shall be subject to points (a), (b) and (c) of Article 97(3) of that *Directive*.

Article 69
Alternative funding means

1. The Board ***shall endeavour to*** contract for the Fund borrowings or other forms of support from financial institutions or other third parties, in the event that the amounts raised in accordance with Articles 66 and 67 are not immediately accessible or sufficient to cover the expenses incurred by the use of the Fund.

   In particular, the Board shall endeavour to contract for the Fund a loan facility, preferably utilising a European public instrument, to ensure the immediate availability of adequate financial means to be used in accordance with Article 71, where the amounts raised or available in accordance with Articles 66 and 67 are not sufficient. Any loan from that loan facility shall be reimbursed by the Fund under an agreed timeframe.

2. The borrowing or other forms of support referred to in paragraph 1 shall be fully recouped in accordance with Article 62 within the maturity period of the loan.

3. Any expenses incurred by the use of the borrowings specified in paragraph 1 have to

be borne by the Board itself and not by the Union budget or the participating Member States.

SECTION 2

ADMINISTRATION OF THE FUND

Article 70
Investments

1. The Board shall administer the Fund and may request the Commission to perform certain tasks relating to the administration of the Fund.

2. The amounts received from an institution under resolution or a bridge institution, the interests and other earnings on investments and any other earnings shall benefit only the Fund.

3. The Board shall ***have a prudent and safe investment policy, in particular by investing*** the amounts held in the Fund in ▌assets of high credit worthiness. Investments should be sufficiently***, sectorally and*** geographically diversified ***to mitigate concentration risks***. The return on those investments shall benefit the Fund. ***The Board shall make public an investment framework, specifying the Fund's investment policy.***

4. The Commission shall be empowered to adopt delegated acts on the detailed rules for the administration of the Fund, in accordance with the procedure set out in Article 82.

SECTION 3

USE OF THE FUND

Article 71
Mission of the Fund

1. Within the framework decided by the Commission, when applying the resolution tools to entities referred to in Article 2, the Board may use the Fund for the following purposes:

   (a) to guarantee the assets or the liabilities of the institution under resolution, its subsidiaries, a bridge institution or an asset management vehicle;

   (b) to make loans to the institution under resolution, its subsidiaries, a bridge institution or an asset management vehicle;

   (c) to purchase assets of the institution under resolution;

   (d) to contribute capital to a bridge institution or an asset management vehicle;

   (e) to pay compensation to shareholders or creditors if, following an evaluation pursuant to Article 17(5), they have received less, in payment of their credits,

than what they would have received, following a valuation pursuant to Article 17(16), in a winding up under normal insolvency proceedings;

(f) to make a contribution to the institution under resolution in lieu of the contribution which would have been achieved by the write down of certain creditors, when the bail-in tool is applied and the resolution authority decides to exclude certain creditors from the scope of bail-in in accordance with Article 24(3);

(g) to take any combination of the actions referred to in points (a) to (f).

2. The Fund may be used to take the actions referred to in points (a) to (g) also with respect to the purchaser in the context of the sale of business tool.

3. The Fund shall not be used directly to absorb the losses of an institution or an entity referred to in Article 2 or to recapitalise an institution or an entity referred to in Article 2. In the event that the use of the resolution financing arrangement for the purposes in paragraph 1 indirectly results in part of the losses of an institution or an entity referred to in Article 2 being passed on to the Fund, the principles governing the use of the resolution financing arrangement set out in ***Article 38 of Directive [BRRD] and*** Article 24 shall apply.

4. The Board may not hold the capital contributed to in accordance with point (f) of paragraph 1 for a period exceeding *five* years.

Article 72
Mutualisation of national financing arrangements in the case of group resolution involving institutions in non-participating Member States

In the case of a group resolution involving institutions authorised in one or more participating Member States on the one hand, and institutions authorised in one or more non-participating Member States on the other hand, the Fund shall contribute to the financing of the group resolution in accordance with the provisions laid down in Article 98 of Directive [*BRRD*].

I

TITLE VI

OTHER PROVISIONS

Article 74
Privileges and Immunities

The Protocol (No 7) on the Privileges and Immunities of the European Union annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union shall apply to the Board and its staff.

Article 75
Languages

1. Council Regulation No 1[1] shall apply to the Board.

2. The Board shall decide on the internal language arrangements for the Board.

3. The Board may decide which of the official languages to use when sending documents to Union institutions or bodies.

4. The Board may agree with each national resolution authority on the language or languages in which the documents to be send to or by the national resolution authorities shall be drafted.

5. The translation services required for the functioning of the Board shall be provided by the Translation Centre of the bodies of the European Union.

Article 76
Staff of the Board

1. The Staff Regulations and the Conditions of Employment of Other Servants and the rules adopted by agreement between the institutions of the Union giving effect to those Staff Regulations and the Conditions of Employment of Other Servants, shall apply to the staff of the Board, including the Executive Director and the Deputy Executive Director.

2. The Board, in agreement with the Commission, shall adopt the appropriate implementing rules for giving effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations.

Article 76a
Organisation of the Staff of the Board

1. The Board may establish internal resolution teams composed of staff of the national resolution authorities of the participating Member States and of its own staff.

2. Where the Board establishes internal resolution teams as provided for in paragraph 1, it shall appoint coordinators of those teams from its own staff. In accordance with Article 47(3), the coordinators may be invited as observers to attend the meetings of the executive session of the Board in which the members appointed by the respective Member States participate in accordance with Article 49(2) and (3).

3. The Board may establish internal committees to provide it with advice and guidance to the discharge of its functions under this Regulation.

[1] OJ 17, 6.10.1958, p. 385.

Article 77
Staff exchange

1. The Board may make use of seconded national experts or other staff not employed by the Board.

2. The Board in its plenary session shall adopt appropriate decision laying down rules on the exchange and secondment of staff from and among the national resolution authorities of the participating Member States to the Board.

I

Article 78
Liability of the Board

1. The Board's contractual liability shall be governed by the law applicable to the contract in question.

2. The Court of Justice of the European Union shall have jurisdiction to give judgement pursuant to any arbitration clause contained in a contract concluded by the Board.

3. In the case of non-contractual liability, the Board shall, in accordance with the general principles common to the laws concerning the liability of public authorities of the Member States, make good any damage caused by it or by its staff in the performance of their duties, in particular their resolution functions, including acts and omissions in support of foreign resolution proceedings.

4. The Board shall compensate a national resolution authority ***of a participating Member State*** for the damages to which it has been condemned by a national court, or which it has, in agreement with the Board, committed to pay in accordance with an amicable settlement, which are the consequences of an act or omission committed by that national resolution authority in the course of any resolution under this Regulation, unless that act or omission constituted a violation of Union law, this Regulation, a Decision of the Commission or a Decision of the Board, ***intentional*** or ***by means of*** manifest and serious error of judgement.

5. The Court of Justice of the European Union shall have jurisdiction in any dispute related to paragraphs 3 and 4. Proceedings in matters arising from non-contractual liability shall be barred after a period of five years from the occurrence of the event giving rise thereto.

6. The personal liability of its staff towards the Board shall be governed by the provisions laid down in the Staff Regulations or Conditions of Employment applicable to them.

Article 79
Professional secrecy and exchange of information

1. Members of Board, staff of the Board and staff exchanged with or seconded by participating Member States carrying out resolution duties, even after their duties are

ceased, shall be subject to the requirements of professional secrecy pursuant to Article 339 TFEU and the relevant provisions in Union *law*, even after their duties have ceased.

2. The Board shall ensure that individuals who provide any service, directly or indirectly, permanently or occasionally, related to the discharge of its duties***, including officials of and other persons authorised by the Board or appointed by the national resolution authorities to conduct on-site inspections,*** are subject to equivalent professional secrecy requirements.

2a. The professional secrecy requirements referred to in paragraphs 1 and 2 also apply to observers who attend the Board's meetings on an ad hoc basis.

2b. The professional secrecy requirements referred to in paragraphs 1 and 2 apply notwithstanding Regulation (EC) No 1049/2001.

3. For the purpose of carrying out the tasks conferred upon it by this Regulation, the Board shall be authorised, within the limits and under the conditions set out in relevant Union law, to exchange information with national or *Union* authorities and bodies in the cases where relevant Union law allows national competent authorities to disclose information to those entities or where Member States may provide for such disclosure under the relevant Union law.

Article 80

Access to information and processing of personal data

4. The processing of personal data by the Board shall be subject to Regulation (EC) No 45/2001 of the European Parliament and of the Council[1]. The processing of personal data by the national resolution authorities shall be subject to Directive 95/46/EC of the European Parliament and of the Council[2].

4a. Persons who are the subject of the Board's decisions shall be entitled to have access to the Board's file, subject to the legitimate interest of other persons in the protection of their business secrets. The right of access to the file shall not extend to confidential information.

Article 81

Security rules on the protection of classified and sensitive non-classified information

The Board shall apply the security principles contained in the Commission's security rules for protecting European Union Classified Information (EUCI) and sensitive non-classified

[1] Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, OJ L 8, 12.1.2001, p. 1.

[2] Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, OJ L 281, 23.11.1995, p. 31.

information, as set out in the annex to Decision 2001/844/EC, ECSC, Euratom. Applying the security principles shall include applying provisions for the exchange, processing and storage of such information.

PART IV
POWERS OF EXECUTION AND FINAL PROVISIONS

Article 82
Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The delegation of powers shall be conferred for an indeterminate period of time from the date referred to in Article 88.

2a. The consistency between this Regulation and Directive [BRRD] shall be guaranteed. Any delegated acts adopted pursuant to this Regulation shall be consistent with Directive [BRRD] and delegated acts adopted pursuant to that Directive.

3. The delegation of powers referred to in ***Article 19(4a),*** *Article* 62(5), *Article* 65(5), *Article* 66(3), *Article* 67(3) and *Article* 70(4) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to *Article* 62(5), *Article* 65(5), *Article* 66(3), *Article* 67(3) and *Article* 70(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of ***three*** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by ***three*** months at the initiative of the European Parliament or the Council.

Article 83
Review

1. By 31 December 2016, and subsequently every five years thereafter, the Commission shall publish a report on the application of this Regulation, with a special emphasis on monitoring the potential impact on the smooth functioning of the internal market. That report shall evaluate:

   (a) the functioning of the SRM and the impact of ▌its resolution activities on the interests of the Union as a whole and on the coherence and integrity of the internal market in financial services, including its possible impact on the structures of the national banking systems within the Union, ***on their competitiveness in comparison with other banking systems outside the SRM***

and outside the Union, and regarding the effectiveness of cooperation and information sharing arrangements within the SRM, between the SRM and the SSM, and between the SRM and national resolution authorities and national competent authorities of non-participating Member States***.***

The report shall, in particular, assess whether:

(i) there is a need that the functions allocated by this Regulation to the Board and to the Commission be exercised exclusively by an independent Union institution;

(ii) cooperation between the SRM, the SSM, ESRB, EBA, ESMA and EIOPA, and the other authorities which form part of the ESFS, is appropriate;

(iii) the investment portfolio in accordance with Article 70 of this Regulation is made of sound and diversified assets;

(iv) the link between sovereign debt and banking risk has been broken;

(v) the voting arrangements are appropriate;

(vi) a reference value relating to total liabilities of all credit institutions authorised in the participating Member States, to be reached additionally to the target funding level established as a percentage of the covered deposits of those institutions, should be introduced;

(vii) the target funding level established for the Fund and the level of contributions to the Fund are in line with the target funding levels and the levels of contributions imposed by non-participating Member States.

The report shall also identify any possibleTreaty change necessary to accommodate the SRM, in particular the possible establishment of an independent Union institution to exercise the functions allocated in this Regulation to the Board and to the Commission;

(b) the effectiveness of independence and accountability arrangements;

(c) the interaction between the Board and *EBA*;

(d) the interaction between the Board and the national resolution authorities of non-participating Member States and the effects of the SRM on these Member States***, and the interaction between the Board and third-country authorities as defined in Article 2(80) [BRRD]***.

2. The report shall be forwarded to the European Parliament and to the Council. The Commission shall make accompanying proposals, as appropriate.

2a. Any review of Directive [BRRD] shall, where appropriate, be accompanied by a

corresponding review of this Regulation.

Article 84
Amendments to Regulation (EU) No 1093/2010

Regulation (EU) No 1093/2010 is amended as follows:

1. In Article 4 point (2) is replaced by the following:

"(2) 'competent authorities' means:

(i) competent authorities as defined in in point 40 of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council[1] and *in* Directive 2007/64/EC, and as referred to in Directive 2009/110/EC;

(ii) with regard to Directives 2002/65/EC and 2005/60/EC, the authorities competent for ensuring compliance with the requirements of those Directives by credit and financial institutions;

(iii) with regard to deposit guarantee schemes, bodies which administer deposit-guarantee schemes pursuant to Directive *[DGS]*, or, where the operation of the deposit-guarantee scheme is administered by a private company, the public authority supervising those schemes pursuant to that Directive; and

(iv) with regard to ***Article*** 62(5), *Article* 65(5), *Article* 66(3), *Article* 67(4) and *Article* 70(4), resolution authorities as defined in Article 3 of *Directive [BRRD]* and the Single Resolution Board established by Regulation (EU) No…/…of the European Parliament and of the Council [SRM].

2. In Article 25, the following paragraph is inserted:

"1a. The Authority may organise and conduct peer reviews of the exchange of information and of the joint activities of the *Single Resolution Board* and national resolution authorities of Member States *not participating* in the SRM in the resolution of cross border groups to strengthen effectiveness and consistency in outcomes. To that end, the Authority shall develop methods to allow for objective assessment and comparison."

3. In Article 40(6), the following third subparagraph is added:

"For the purpose of acting within the scope of *Article* 62(5), *Article* 65(5), *Article* 66(3), *Article* 67(4) and *Article* 70(4), the Executive Director of the ***Single*** Resolution Board shall be an observer to the Board of Supervisors."

1

Article 85
Replacement of national resolution financing arrangements

From the date of application referred to in the second subparagraph of Article 88, the Fund shall ***replace*** the resolution financing arrangement of the participating Member States under Title VII of Directive [*BRRD*].

Article 86
Headquarters Agreement and operating conditions

1. The necessary arrangements concerning the accommodation to be provided for the Board in the host Member State and the facilities to be made available by that Member State together with the specific rules applicable in the host Member State to the Executive Director, members of the Board in its plenary session, Board staff and members of their families shall be laid down in a Headquarters Agreement between the Board and the host Member State, concluded after obtaining the approval of the Board in its plenary session and no later than *two* years after the entry into force of this Regulation.

2. The Board's host Member State shall provide the best possible conditions to ensure the functioning of the Board, including multilingual, European-oriented schooling and appropriate transport connections.

Article 87
Start of the Board's activities

1. The Board shall become fully operational by 1 January 2015.

2. The Commission shall be responsible for the establishment and initial operation of the Board until the Board has the operational capacity to implement its own budget. For that purpose:

   (a) until the Executive Director takes up his duties following his appointment by the Council in accordance with Article 53, the Commission may designate a Commission official to act as interim Executive Director and exercise the duties assigned to the Executive Director;

   (b) by derogation from ***Article 46(1)(i)*** and until the adoption of a decision as referred to in ***Article 46(2)***, the interim Executive Director shall exercise the appointing authority powers;

   (c) the Commission may offer assistance to the Board, in particular by seconding Commission officials to carry out the activities of the agency under the responsibility of the interim Executive Director or the Executive Director;

   (d) the Commission shall collect the annual contributions referred to in Article 62(5)(d) on behalf of the Board.

3. The interim Executive Director may authorise all payments covered by appropriations entered in the Board's budget and may conclude contracts, including staff contracts.

Article 88
Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Articles 7 to 23 and Articles 25 to ***37*** shall apply from 1 January 2015.

Article 24 shall apply from ***1 January 2016***.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done ...,

For the European Parliament	*For the Council*
The President	*The President*

7.11.2013

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS

for the Committee on Economic and Monetary Affairs

on the proposal for a Regulation of the European Parliament and of the Council establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Bank Resolution Fund and amending Regulation (EU) No 1093/2010 of the European Parliament and of the Council
(COM(2013)0520 – C7-0223/2013 – 2013/0253(COD))

Rapporteur Dimitar Stoyanov

PA_Legam

SHORT JUSTIFICATION

The proposed Regulation is part of the endeavour to create a banking union in the EU in order to increase financial stability and ensure that the European economy can rely on a properly functioning financial sector. The Regulation will establish a Single Resolution Mechanism (SRM) – one of the measures deemed by the European Council in March 2013 to be essential for completion of the banking union. The SRM will apply to the eurozone Member States and to other Member States that have chosen to participate in it. The proposal is based on Article 114 of the Treaty on the Functioning of the European Union.

In parallel with the proposal for a regulation, the Commission is also proposing a Directive of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms. Thus, irrespective of whether Member States have opted to take part in the SRM or to remain outside it, they will have to apply the same prudential requirements and rules on banking resolution. The main difference concerns the competent authorities: under the Directive they will be the national authorities, whereas the SRM will entail the creation of a Single Resolution Board and an EU-level procedure for the resolution of failing financial institutions.

Aim of the motion for a resolution

Under the proposal, the aim of the SRM is to enable a single set of rules to be applied to all failing banks in participating Member States and to offer effective procedures for coping with bank failures, minimising the cost to taxpayers and the economy. The SRM will complement the Single Supervisory Mechanism (SSM), through which the European Central Bank

assumes ultimate responsibility for the supervision of all eurozone banks. The Regulation will establish a single fund for the resolution of problem banks, to be financed by contributions from lending institutions at the rate of 1% of the value of their deposits; by the end of a 10-year transitional period the fund is expected to be worth approximately EUR 55 billion.

The main reason for establishing EU-level responsibility and EU-level procedures is that, in the banking union, banking supervision, via the single system for which the ECB will be responsible, and banking resolution 'need to be exercised by the same level of authority'. The fact that the SRM will be applied by the participating Member States at EU level means that there needs to be significant overlap between the Directive and the Regulation, including parallel provisions, as the Single Resolution Board and the Commission need to base their activities on directly applicable EU law rather than on directives.

Structure and activity of the SRM

The Single Resolution Board will consist of the Executive Director, the Deputy Executive Director, representatives appointed by the Commission and the ECB, and members appointed by each participating Member State, representing the national resolution authorities. The Board, chaired by the Executive Director, will meet and operate in two sessions:
a plenary session, in which all decisions of a general nature will be taken, and an executive session, when it will comprise the Executive Director, the Deputy Executive Director and the representatives appointed by the Commission and the ECB. At its executive session, the Board will take decisions in respect of individual entities or banking groups.

Such decisions will range from resolution planning and authorising early intervention to decisions on resolution schemes, including on the use of the Fund for financing the resolution process, and instructing the national resolution authorities on the implementation of resolution decisions. Proceedings to place a credit institution or banking group under resolution would be initiated following notification from the ECB to the Single Resolution Board, which would then make a recommendation to the Commission. Should the Commission decide that the necessary criteria are met, it would instruct the Single Resolution Board to take measures in accordance with the Regulation.

Powers of the Single Resolution Board

The Single Resolution Board will be given substantial powers to conduct investigations (see Articles 32 and 33), including on-site inspections (Article 34). If, according to national rules, authorisation by a judicial authority is required for conducting inspections, the national judicial authority may check only that the decision of the Board is authentic and that the coercive measures envisaged are neither arbitrary nor excessive. The national judicial authority will not be able to review the necessity for the inspection or demand to be provided with information on the Board's case file; and the lawfulness of the Board's decision will be subject to review only by the Court of Justice of the European Union (see Article 35).

In order to ensure that its decisions are implemented and to make its investigations more effective, the Single Resolution Board will be empowered to apply sanctions – set out in the proposal for a Regulation – for breaches of the rules. Thus, it may instruct national resolution authorities to impose penalties, in the form of fines, on credit institutions that fail to make

available information or to cooperate with an investigation, fail to pay their contribution to the Single Bank Resolution Fund or fail to comply with a decision addressed to them by the Board (Article 36).

Similarly, the Single Resolution Board may instruct national authorities to impose periodic penalty payments on entities or persons for failure to make information available or failure to to comply with a Board decision (Article 37).

Accountability to the European Parliament

Under Article 41 of the proposed Regulation, the Board 'shall be accountable to the European Parliament, the Council and the Commission for the implementation of [the] Regulation'. The Board is thus required to submit an annual report to Parliament, the Council, the Commission and the European Court of Auditors, and its Executive Director is required to appear before Parliament, the Council and the Commission.

In addition, the Executive Director is required to participate, at Parliament's request, in hearings held by the competent committees of Parliament on the implementation of Board decisions, and to hold confidential oral discussions with the Chairs and Deputy Chairs of the competent committees of Parliament when such discussions are required in order for Parliament to exercise its powers under the Treaty. The proposal stipulates that: 'An agreement shall be concluded between the European Parliament and the Board on the detailed modalities of organising such discussions, with a view to ensuring full confidentiality in accordance with the confidentiality obligations imposed on the ECB as a competent authority under relevant Union law.'

The proposal further provides that: 'The Board and the Parliament shall conclude appropriate arrangements on the practical modalities of the exercise of democratic accountability and oversight over the exercise of the tasks conferred on the Board by this Regulation. Those arrangements shall cover, inter alia, access to information, cooperation in investigations and information on the selection procedure of the Executive Director.' (See Article 41(8).)

AMENDMENTS

The Committee on Legal Affairs calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a regulation
Recital 11

Text proposed by the Commission	*Amendment*
(11) A single bank resolution fund (hereinafter referred to as the 'Fund') is an essential element without which a single resolution mechanism could not work	(11) A single bank resolution fund (hereinafter referred to as the 'Fund') is an essential element without which a single resolution mechanism could not work

properly. Different systems of national funding would distort the application of uniform bank resolution rules in the internal market. The Fund should help to ensure a uniform administrative practice in the financing of resolution and to avoid the creation of obstacles for the exercise of fundamental freedoms or the distortion of competition in the internal market due to divergent national practices. The Fund should be financed directly by banks and should be pooled at Union level so that the resolution resources can be objectively allocated across Member States thus increasing financial stability and limiting the link between the perceived fiscal position of individual Member States and the ***funding*** costs of banks and undertakings operating in those Member States.	properly. Different systems of national funding would distort the application of uniform bank resolution rules in the internal market. The Fund should help to ensure a uniform administrative practice in the financing of resolution and to avoid the creation of obstacles for the exercise of fundamental freedoms or the distortion of competition in the internal market due to divergent national practices. The Fund should be financed directly by banks and should be pooled at Union level so that the resolution resources can be objectively allocated across Member States thus increasing financial stability***, contributing to growth in the internal market*** and limiting the link between the perceived fiscal position of individual Member States and the costs of ***financing failing*** banks and undertakings operating in those Member States.

Amendment 2

Proposal for a regulation
Recital 20 a (new)

Text proposed by the Commission	*Amendment*
	(20a) Directive [BRRD] should govern recovery and resolution planning, early intervention, conditions for and principles of resolution as well as the use of resolution tools by SRM. It is therefore appropriate that this regulation covers only those aspects required to ensure that the SRM implements that directive and that appropriate additional funding required is at its disposal.

Amendment 3

Proposal for a regulation
Article 6 - paragraph 4

Text proposed by the Commission	*Amendment*
(4) No decision of the Board or the Commission shall require Member States to provide ***extraordinary*** public financial support.	(4) No decision of the Board or the Commission shall require Member States to provide ***direct*** public financial support ***other than through the use of resources from the Fund established under this Regulation***.

Amendment 4

Proposal for a regulation
Article 7 – paragraph 5 – subparagraph d

Text proposed by the Commission	*Amendment*
(d) an estimation of the timeframe for executing each material aspect of the plan;	(d) an estimation of the timeframe***, and of the likelihood of success,*** for executing each material aspect of the plan;

Amendment 5

Proposal for a regulation
Article 7 – paragraph 5 – subparagraph i

Text proposed by the Commission	*Amendment*
(i) ***an*** explanation by the resolution authority as to how the resolution options could be financed without the assumption of any ***extraordinary*** public financial support;	(i) ***a precise and clear*** explanation by the resolution authority as to how the resolution options could be financed without the assumption of any public financial support ***other than through the use of resources from the Fund established under this Regulation***;

Amendment 6

Proposal for a regulation
Article 7 – paragraph 9

Text proposed by the Commission	*Amendment*
(9) Resolution plans shall be reviewed, and where appropriate updated, at least annually and after any changes to the legal or organisational structure of the institution or to its business or its financial position that could have a material effect on or require a change to the plan.	(9) Resolution plans shall be reviewed, and where appropriate updated, at least annually and after any changes to the legal or organisational structure of the institution or to its business or its financial position***, or any changes in national and/or EU-level law,*** that could have a material effect on or require a change to the plan.

Amendment 7

Proposal for a regulation
Article 7 a (new)

Text proposed by the Commission	*Amendment*
	Article 7 a
	Application of Directive [BRRD]
	The actions of the SRM in relation to institutions shall be governed by Directive [BRRD].

Amendment 8

Proposal for a regulation
Article 7 b (new)

Text proposed by the Commission	*Amendment*
	Article 7 b
	Resolvability of Systemically Important Institutions
	For institutions referred to in article 2 of this regulation and identified as globally systemic important institutions (G-SIIs) or

as other systemically important institutions (O-SIIs) pursuant to Article 131 of DIRECTIVE 2013/36/EU, the Board shall prioritise the assessment of their resolvability in accordance with Article 13 [BRRD] and draw up a plan for each of these institutions to remove impediments to resolvability in accordance with Article 14 [BRRD].

The plan shall include at least the following:

(a) requiring the institution to divest specific assets;

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

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

Amendment 9

Proposal for a regulation
Article 17 – paragraph 11

Text proposed by the Commission	*Amendment*
(6) A valuation that does not comply with all the requirements laid down in this Article shall be considered as provisional until an independent person has carried out a valuation that is fully compliant with all the requirements set out in this Article. That ex post definitive valuation shall be carried out as soon as practicable.	(6) A valuation that does not comply with all the requirements laid down in this Article shall be considered as provisional until an independent ***and impartial*** person has carried out a valuation that is fully compliant with all the requirements set out in this Article. That ex post definitive valuation shall be carried out as soon as practicable.

Amendment 10

Proposal for a regulation
Article 25 - paragraph 1 - subparagraph b - indent iv

Text proposed by the Commission	*Amendment*
(iv) the appointment, removal or replacement of evaluators, administrators, accountants, lawyers and other professionals ***that may be necessary*** to assist the national resolution authority, and on the performance of ***their*** duties;	(iv) the appointment, removal or replacement of evaluators, administrators, accountants, lawyers and other professionals ***where this might be needed*** to assist the national resolution authority, and on the ***more effective*** performance of ***its*** duties;

Amendment 11

Proposal for a regulation
Article 25 - paragraph 1 - subparagraph b - indent v

Text proposed by the Commission	*Amendment*
(v) any other matter that may be referred to by the Board;	(v) any other matter that may be referred to by the Board ***in relation to the resolution procedure***;

Amendment 12

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

Text proposed by the Commission	*Amendment*
2. Where a national resolution authority has not applied a decision referred to in Article 16, or has applied it in a way which fails to achieve the resolution objectives under this Regulation, the Board shall have the power to order an institution under resolution:	2. Where a national resolution authority has not applied a decision referred to in Article 16, or has applied it in a way which fails to achieve the resolution objectives under this Regulation, the Board shall have the power to order an institution under resolution ***or exercise any other powers provided for in Directive [BRRD]***:

Amendment 13

Proposal for a regulation
Article 42 – paragraph 1

Text proposed by the Commission	*Amendment*
(1) Due to the specific tasks of the Board, national Parliaments of the participating Member States, through their own procedures, may request the Board to reply in writing to any observations or questions submitted by them to the Board in respect of the functions of the Board under this Regulation.	(1) Due to the specific tasks of the Board, national Parliaments of the participating Member States, through their own procedures, may request the Board to reply in writing to any observations or questions submitted by them to the Board in respect of the functions of the Board under this Regulation. ***The Board, for its part, shall undertake to submit its replies to the national Parliaments of the participating Member States within a reasonable time.***

Amendment 14

Proposal for a regulation
Article 51 – paragraph 1

Text proposed by the Commission	*Amendment*
1. When deliberating on an individual entity or a group established only in one participating Member State, the Board shall take its decisions in its executive sessions by a simple majority of ***its*** participating members. In case of a tie the Executive Director shall have a casting vote.	1. When deliberating on an individual entity or a group established only in one participating Member State, the Board shall take its decisions in its executive sessions by a simple majority of ***the*** participating members ***referred to in article 49(2)***. In case of a tie the Executive Director shall have a casting vote.

Amendment 15

Proposal for a regulation
Article 66 – paragraph 3 – introductory part

Text proposed by the Commission	*Amendment*
3. The Commission shall be empowered to adopt delegated acts in accordance with	3. ***Without prejudice to paragraph 1 second subparagraph,*** the Commission

Article 82 to specify the following:	shall be empowered to adopt delegated acts in accordance with Article 82 to specify the following:

Amendment 16

Proposal for a regulation
Article 69 – paragraph 1

Text proposed by the Commission	*Amendment*
1. The Board may contract for the Fund borrowings or other forms of support from financial institutions or other third parties, in the event that the amounts raised in accordance with Articles 66 and 67 are not immediately accessible or sufficient to cover the expenses incurred by the use of the Fund.	1. The Board may contract for the Fund borrowings or other forms of support from***, first private and, where this is not possible, public*** financial institutions or other third parties, in the event that the amounts raised in accordance with Articles 66 and 67 are not immediately accessible or sufficient to cover the expenses incurred by the use of the Fund.

Amendment 17

Proposal for a regulation
Article 82 – paragraph 5

Text proposed by the Commission	*Amendment*
(5) A delegated act adopted pursuant to Articles 62(5), 65(5), 66(3), 67(3) and 70(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of ***two*** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.	(5) A delegated act adopted pursuant to Articles 62(5), 65(5), 66(3), 67(3) and 70(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of ***three*** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Justification

The time limit for making objections needs to be increased, in order to enable Parliament and the Council to examine the delegated act in depth and to assess whether its adoption in that form is fitting and correct.

PROCEDURE

Title	Uniform rules and procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Bank Resolution Fund
References	COM(2013)0520 – C7-0223/2013 – 2013/0253(COD)
Committee responsible Date announced in plenary	ECON 10.9.2013
Opinion by Date announced in plenary	JURI 10.9.2013
Rapporteur Date appointed	Dimitar Stoyanov 17.9.2013
Discussed in committee	14.10.2013
Date adopted	5.11.2013
Result of final vote	+: 20 –: 0 0: 1
Members present for the final vote	Raffaele Baldassarre, Luigi Berlinguer, Sebastian Valentin Bodu, Françoise Castex, Christian Engström, Marielle Gallo, Giuseppe Gargani, Lidia Joanna Geringer de Oedenberg, Sajjad Karim, Klaus-Heiner Lehne, Antonio Masip Hidalgo, Alajos Mészáros, Bernhard Rapkay, Evelyn Regner, Rebecca Taylor, Alexandra Thein, Cecilia Wikström, Zbigniew Ziobro, Tadeusz Zwiefka
Substitute(s) under Rule 187(2) present for the final vote	Eva Lichtenberger, József Szájer

12.12.2013

OPINION OF THE COMMITTEE ON CONSTITUTIONAL AFFAIRS

for the Committee on Economic and Monetary Affairs

on the proposal for a regulation of the European Parliament and of the Council establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Bank Resolution Fund and amending Regulation (EU) No 1093/2010 of the European Parliament and of the Council
(COM(2013)0520 – C7-0223/2013 – 2013/0253(COD))

Rapporteur: Constance Le Grip

SHORT JUSTIFICATION

The strengthening of the Economic and Monetary Union through the creation of a Banking Union between the eurozone countries is a key step in the European integration process which should stabilise the internal financial services market and make it more ethical, regain the trust of the public and the markets, and overcome the fragmentation of the financial markets which was exacerbated by the economic crisis.

The rapporteur is responsible for the institutional framework of the second pillar of the Banking Union, which comprises a Single Resolution Mechanism and a Single Resolution Fund. The mechanism, which complements the Single Supervisory Mechanism proposed by the Commission in September 2012, will centralise key competences and resources for managing banking crises in the eurozone and will lead to the creation of an integrated resolution mechanism at EU level. The linchpins of the mechanism will be a Single Resolution Board, the national resolution authorities of the participating Member States and the Commission. This structure raises major institutional questions which need to be brought to the attention of the Committee on Constitutional Affairs and which will be forwarded to all Members of the European Parliament.

The rapporteur should nevertheless like to draw attention to paragraph six of the motion for a resolution tabled by the Committee on Economic and Monetary Affairs entitled 'Towards a Banking Union', which was adopted at the Strasbourg part-session of 13 September 2012. Paragraph six states that 'any major change in supervision, including shifts to other institutions, must be accompanied by an equivalent increase in transparency and accountability of such institutions vis-à-vis Parliament, which must have full questioning rights and full powers in relation to appointment and budgetary procedures'.

The rapporteur supports the ultimate objective of incorporating the governance of the Banking Union, and consequently of the Single Resolution Mechanism and Single Resolution Fund, into the institutional framework of the Union, and believes that the current gap between national and European policies needs to be bridged. The rapporteur therefore believes that three main improvements, as reflected in the amendments, should be made to the proposal:

- restructuring Part III on the institutional framework, primarily by combining Titles I and IV;
- strengthening parliamentary oversight of the exercise by the Single Resolution Board (hereinafter the Board) of its resolution powers;
- consolidating the democratic accountability of this new EU agency to the European Parliament and the national parliaments of the participating Member States.

The rapporteur agrees with the legal basis for this Commission proposal (Article 114 of the

TFEU), which provides for the adoption of measures for the approximation of national provisions which have as their object the establishment and functioning of the internal market. The rapporteur has tabled amendments proposing more parliamentary oversight of the exercise by the Board of its resolution powers, by means of procedures by which the European Parliament must give its approval for the appointment of the Executive Director and Deputy Executive Director of the Board, and periodic exchanges with the European Parliament, the relevant EP committee or with solely the chair and vice-chairs of that committee.

The rapporteur also wants the powers conferred on national parliaments of the Member States participating in the Single Resolution Mechanism to be applied in accordance with Protocol No 1 to and Articles 69, 70, 71 and 352 of the TFEU. This would ensure that the Board's annual work programme is forwarded to the national parliaments of the participating Member States, make it possible for the latter to send back to the Board their reasoned observations on the programme and for the Board's accounts for the previous financial year to be forwarded to the relevant national parliaments.

AMENDMENTS

The Committee on Constitutional Affairs calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following amendments into its report:

Amendment **1**

Proposal for a regulation
Recital 1

Text proposed by the Commission	*Amendment*
(1) Having a better integrated internal market for banking services is essential in order to foster economic recovery in the Union. However, the current financial and economic crisis has shown that the functioning of the internal market in this area is under threat and that there is an increasing risk of financial fragmentation. Interbank markets have become less liquid and cross-border bank activities are decreasing due to fear of contagion, lack of confidence in other national banking systems and in the ability of Member States to support banks.	(1) Having a better integrated internal market for banking services is essential in order to foster economic recovery in the Union. However, the current financial and economic crisis has shown that the functioning of the internal market in this area is under threat and that there is an increasing risk of financial fragmentation. Interbank markets have become less liquid and cross-border bank activities are decreasing due to fear of contagion, lack of confidence in other national banking systems and in the ability of Member States to support banks. ***This is a real source of concern in a single market in which banking institutions have the use of a European passport and where the majority of these institutions operate in***

several Member States.

Amendment 2

Proposal for a regulation
Recital 7

Text proposed by the Commission	*Amendment*
(7) Ensuring ***effective*** uniform resolution decisions for failing banks within the Union, including on the use of funding raised at Union level, is essential for the completion of the internal market in financial services. Within the internal market, the failure of banks in one Member State may affect the stability of the financial markets of the whole Union. Ensuring effective ***and*** uniform resolution rules and equal conditions of resolution financing across Member States is in the best interest not only of the Member States in which banks operate, but also of all Member States in general as a means to preserve competition and improve the functioning of the internal market. Banking systems in the internal market are highly interconnected, bank groups are international and banks have a large percentage of foreign assets. In the absence of a single resolution mechanism, bank crises in Member States participating in the Single Supervisory Mechanism (SSM) would have stronger negative systemic impact also in non-participating Member States. The establishment of the single resolution mechanism will increase stability of the banks of the participating Member States and prevent the spill-over of crises into non-participating Member States and will thus facilitate the functioning of the whole of the internal market.	(7) Ensuring uniform ***and coherent*** resolution decisions for failing banks within the Union, including on the use of funding raised at Union level, ***by means of a standardised decision-making process with a rapid intervention capacity***, is essential for the completion of the internal market in financial services. Within the internal market, the failure of banks in one Member State may affect the stability of the financial markets of the whole Union. Ensuring effective**,** uniform ***and coherent*** resolution rules and equal conditions of resolution financing across Member States is in the best interest not only of the Member States in which banks operate, but also of all Member States in general as a means to preserve competition and improve the functioning of the internal market. Banking systems in the internal market are highly interconnected, bank groups are international and banks have a large percentage of foreign assets. In the absence of a single resolution mechanism, bank crises in Member States participating in the Single Supervisory Mechanism (SSM) would have stronger negative systemic impact also in non-participating Member States. The establishment of the single resolution mechanism will increase stability of the banks of the participating Member States and prevent the spill-over of crises into non-participating Member States and will thus facilitate the functioning of the whole of the internal market.

Amendment 3

Proposal for a regulation
Recital 10

Text proposed by the Commission	*Amendment*
(10) The sharing of resolution responsibilities between the national and the Union levels should be aligned to the sharing of supervision responsibilities between those levels. As long as supervision remains national in a Member State, that Member State should remain responsible for the financial consequences of a bank failure. The single resolution mechanism should therefore only extend to banks and financial institutions established in Member States participating in the SSM and subject to the supervision of the ECB within the framework of the SSM. Banks established in the Member States not participating in the SSM should not be subject to the single resolution mechanism. If such Member States became subject to the single resolution mechanism, this would create the wrong incentives for them. In particular, supervisors in these Member States may become more lenient towards banks in their jurisdictions as they would not have to bear the full financial risk of their failures. Therefore, in order to ensure parallelism with the SSM, the single resolution mechanism should apply to Member States participating in the SSM. As Member States join the SSM, they should also automatically become subject to the single resolution mechanism. Ultimately, the single resolution mechanism ***is expected to*** extend to the entire internal market.	(10) The sharing of resolution responsibilities between the national and the Union levels should be aligned to the sharing of supervision responsibilities between those levels. As long as supervision remains national in a Member State, that Member State should ***also*** remain responsible for the financial consequences of a bank failure. The single resolution mechanism should therefore only extend to banks and financial institutions established in Member States participating in the SSM and subject to the supervision of the ECB within the framework of the SSM. Banks established in the Member States not participating in the SSM should not be subject to the single resolution mechanism. If such Member States became subject to the single resolution mechanism, this would create the wrong incentives for them. In particular, supervisors in these Member States may become more lenient towards banks in their jurisdictions as they would not have to bear the full financial risk of their failures. Therefore, in order to ensure parallelism with the SSM, the single resolution mechanism should apply to Member States participating in the SSM. As Member States join the SSM, they should also automatically become subject to the single resolution mechanism. Ultimately, the single resolution mechanism ***should*** extend to the entire internal market.

Amendment 4

Proposal for a regulation
Recital 19

Text proposed by the Commission	*Amendment*
(19) In order to ensure a swift and effective decision making process in resolution, the Board should be a specific Union agency with ***a specific*** structure, corresponding to its specific tasks, and which departs from the model of all other agencies of the Union. Its composition should ensure that due account is taken of all relevant interests at stake in resolution procedures. The Board should operate in executive and plenary sessions. In its executive session, it should be composed of an Executive Director, a Deputy Executive Director, and representatives of the Commission and the ECB. Considering the missions of the Board, the Executive Director and Deputy Executive Director should be appointed by the Council on a proposal from the Commission and after ***hearing*** the European Parliament. When deliberating on the resolution of a bank or group established within a single participating Member State, the executive session of the Board should also convene and involve in the decision-making process the member appointed by the Member State concerned representing its national resolution authority. When deliberating on a cross-border group, the members appointed by the home and all host Member States concerned representing the relevant national resolution authorities should also be convened and involved in the decision-making process of the executive session of the Board. However, home authorities and host authorities should have a balanced influence on the decision, so host authorities should have jointly one single vote. Observers, including a representative of the ESM ***and of*** the Euro Group, may also be invited to attend the meetings of the	(19) In order to ensure a swift and effective decision making process in resolution, the Board should be a specific Union agency with ***its own*** structure, corresponding to its specific tasks, and which departs from the model of all other agencies of the Union. Its composition should ensure that due account is taken of all relevant interests at stake in resolution procedures. The Board should operate in executive and plenary sessions. In its executive session, it should be composed of an Executive Director, a Deputy Executive Director, and representatives of the Commission and the ECB. Considering the missions of the Board, the Executive Director and Deputy Executive Director should be appointed by the Council on a proposal from the Commission and after ***obtaining the approval of*** the European Parliament. When deliberating on the resolution of a bank or group established within a single participating Member State, the executive session of the Board should also convene and involve in the decision-making process the member appointed by the Member State concerned representing its national resolution authority. When deliberating on a cross-border group, the members appointed by the home and all host Member States concerned representing the relevant national resolution authorities should also be convened and involved in the decision-making process of the executive session of the Board. However, home authorities and host authorities should have a balanced influence on the decision, so host authorities should have jointly one single vote. Observers, including a representative of the ESM**,** the Euro Group ***and the European***

Board.	***Parliament***, may also be invited to attend the meetings of the Board.

Amendment 5

Proposal for a regulation
Recital 19 a (new)

Text proposed by the Commission	*Amendment*
	(19a) The principle of sincere cooperation between the European institutions is enshrined in the Treaties, specifically in Article 13(2) of the Treaty on European Union.

Amendment 6

Proposal for a regulation
Recital 21

Text proposed by the Commission	*Amendment*
(21) The Board and the Commission, where relevant, should replace the national resolution authorities designated under Directive [ ] in respect of all aspects related to the resolution decision-making process. The national resolution authorities designated under Directive [ ] should continue to carry out activities related to the implementation of resolution schemes adopted by the Board. In order to ensure transparency and democratic control, as well as to safeguard the rights of the Union institutions, the Board should be accountable to the European Parliament and to the Council for any decisions taken on the basis of this proposal. ***For the same reasons of transparency and democratic control, national parliaments should have certain rights to obtain information about the activities of the Board and to engage in a dialogue with it.***	(21) The Board and the Commission, where relevant, should replace the national resolution authorities designated under Directive [ ] in respect of all aspects related to the resolution decision-making process. The national resolution authorities designated under Directive [ ] should continue to carry out activities related to the implementation of resolution schemes adopted by the Board. In order to ensure transparency and democratic control, as well as to safeguard the rights of the Union institutions, the Board should be accountable to the European Parliament and to the Council***, in their capacity as democratically legitimate institutions representing the European people and the Member States,*** for any decisions taken on the basis of this proposal.

Justification

For consistency with recital 55 of the SSM, which states that the ECB 'must be accountable for the exercise of these tasks towards the European Parliament and the Council of Ministers as democratically legitimised institutions representing the European people and the Member States.'

Amendment 7

Proposal for a regulation
Recital 21 a (new)

Text proposed by the Commission	*Amendment*
	(21a) For the purposes of transparency, accountability and democratic control, and with regard to the impact of the Board's resolution activities on the interests of the Union as a whole, and on the coherence and integrity of the internal market in financial services, including their potential impact on the structures of national banking systems within the Union, national parliaments should have the right to obtain information on the Board's activities and to engage in dialogue with it.

Amendment 8

Proposal for a regulation
Recital 21 b (new)

Text proposed by the Commission	*Amendment*
	(21b) At the request of the parliaments of the participating Member States, it should be possible for the relevant committees of the national parliaments in question to hold a hearing, in the presence of the competent national authority, with a representative of the Board.

Amendment 9

Proposal for a regulation
Recital 26

Text proposed by the Commission	*Amendment*
(26) In order to ensure ***rapid*** resolution action when it becomes necessary, the Board should closely monitor, in cooperation with the relevant competent authority or the ECB, the situation of the institutions concerned and the compliance of those institutions with any early intervention measure taken in their respect.	(26) In order to ensure ***that*** resolution action ***is started rapidly*** when it becomes necessary, the Board should closely monitor, in cooperation with the relevant competent authority or the ECB, the situation of the institutions concerned and the compliance of those institutions with any early intervention measure taken in their respect.

Amendment 10

Proposal for a regulation
Recital 27

Text proposed by the Commission	*Amendment*
(27) In order to minimise disruption to the financial market and to the economy, the resolution process should be accomplished in a short time. The Commission should, throughout the resolution procedure, have access to any information which it deems necessary to take an informed decision in the resolution process. Where the Commission decides to put an institution under resolution, the Board should immediately adopt a resolution scheme establishing the details of the resolution tools and powers to be applied, and the use of any financing arrangements.	(27) In order to minimise disruption to the financial market and to the economy, the resolution process should be accomplished in a ***very*** short time. The Commission should, throughout the resolution procedure, have access to any information which it deems necessary to take an informed decision in the resolution process. Where the Commission decides to put an institution under resolution, the Board should immediately adopt a resolution scheme establishing the details of the resolution tools and powers to be applied, and the use of any financing arrangements.

Amendment 11

Proposal for a regulation
Recital 28

Text proposed by the Commission	*Amendment*
(28) Liquidation of a failing institution under normal insolvency proceedings could jeopardise financial stability, interrupt the provision of essential services, and affect the protection of depositors. In such a case there is a public interest in applying resolution tools. The objectives of resolution should therefore be to ensure the continuity of essential financial services, to maintain the stability of the financial system, to reduce moral hazard by minimising reliance on public financial support to failing institutions, ***and*** to protect depositors.	(28) Liquidation of a failing institution under normal insolvency proceedings could jeopardise financial stability, interrupt the provision of essential services, and affect the protection of depositors. In such a case there is a public interest in applying resolution tools. The objectives of resolution should therefore be to ensure the continuity of essential financial services, to maintain the stability of the financial system, to reduce moral hazard by minimising reliance on public financial support to failing institutions, to protect depositors ***and to contribute to sustainable and balanced economic growth***.

Amendment 12

Proposal for a regulation
Recital 36

Text proposed by the Commission	*Amendment*
(36) The Commission should provide the framework for the resolution action to be taken depending on the circumstances of the case and should be able to designate for use all necessary resolution tools. Within that clear and precise framework, the Board should decide on the detailed resolution scheme. The relevant resolution tools should include the sale of business tool, the bridge institution tool, the bail-in tool and the asset separation tool, which are also provided for by Directive [ ]. The framework should also make it possible to assess whether the conditions for the write-down and conversion of capital instruments are met.	(36) ***On the basis of the draft resolution plans prepared by the Board,*** the Commission should provide the framework for the resolution action to be taken depending on the circumstances of the case and should be able to designate for use all necessary resolution tools. Within that clear and precise framework, the Board should decide on the detailed resolution scheme ***rapidly and effectively***. The relevant resolution tools should include the sale of business tool, the bridge institution tool, the bail-in tool and the asset separation tool, which are also provided for by Directive [ ]. The framework should also make it possible to assess whether the conditions for the write-down and conversion of capital instruments are met.

Amendment 13

Proposal for a regulation
Recital 39

Text proposed by the Commission	*Amendment*
(39) ***An*** effective resolution regime should minimise the costs of the resolution of a failing institution borne by the taxpayers. It should also ensure that even large institutions of systemic importance can be resolved without jeopardising financial stability. The bail-in tool achieves that objective by ensuring that shareholders and creditors of the entity suffer appropriate losses and bear an appropriate part of those costs. To this end, statutory debt write down powers should be included in a framework for resolution as an additional option in conjunction with other resolution tools, as recommended by the Financial Stability Board.	(39) ***A rapid and*** effective resolution regime should minimise the costs of the resolution of a failing institution borne by the taxpayers. It should also ensure that even large institutions of systemic importance can be resolved without jeopardising financial stability. The bail-in tool achieves that objective by ensuring that shareholders and creditors of the entity suffer appropriate losses and bear an appropriate part of those costs. To this end, statutory debt write down powers should be included in a framework for resolution as an additional option in conjunction with other resolution tools, as recommended by the Financial Stability Board.

Amendment 14

Proposal for a regulation
Article 39 – paragraph 2

Text proposed by the Commission	*Amendment*
2. The term of office of the Executive Director, the Deputy Executive Director and of the members of the Board appointed by the Commission and the ECB shall be five years. Subject to Article ***53***(6), that term shall not be renewable.	2. The term of office of the Executive Director, the Deputy Executive Director and of the members of the Board appointed by the Commission and the ECB shall be five years. Subject to Article ***52***(6), that term shall not be renewable.

Amendment 15

Proposal for a regulation
Article 39 – paragraph 3 – point a

Text proposed by the Commission	*Amendment*
(a) a plenary session of the Board, which shall exercise the tasks set out in Article ***47***;	(a) a plenary session of the Board, which shall exercise the tasks set out in Article ***46***;

Amendment 16

Proposal for a regulation
Article 39 – paragraph 3 – point b

Text proposed by the Commission	*Amendment*
(b) an executive session of the Board, which shall exercise the tasks set out in Article ***51***;	(b) an executive session of the Board, which shall exercise the tasks set out in Article ***50***;

Amendment 17

Proposal for a regulation
Article 39 – paragraph 3 – point c

Text proposed by the Commission	*Amendment*
(c) an Executive Director, which shall exercise the tasks set out in Article ***53***;	(c) an Executive Director, which shall exercise the tasks set out in Article ***52***;

Amendment 18

Proposal for a regulation
Article 41 – paragraph 2

Text proposed by the Commission	*Amendment*
2. The Board shall submit each year a report to the European Parliament, the Council, the Commission ***and*** the European Court of Auditors on the execution of the tasks conferred upon it by this Regulation.	2. The Board shall submit each year a report to the European Parliament, the Council, the Commission***,*** the European Court of Auditors ***and the national parliaments of participating Member States*** on the execution of the tasks

conferred upon it by this Regulation.

Amendment 19

Proposal for a regulation
Article 41 – paragraph 3

Text proposed by the Commission	*Amendment*
3. The Executive Director shall present that report ***in public*** to the European Parliament, and to the Council.	3. The Executive Director shall present that report to the European Parliament, and to the Council.

Amendment 20

Proposal for a regulation
Article 41 – paragraph 3 a (new)

Text proposed by the Commission	*Amendment*
	3a. The national parliaments of the participating Member States may submit to the Board their reasoned observations on the report.

Amendment 21

Proposal for a regulation
Article 41 – paragraph 6

Text proposed by the Commission	*Amendment*
6. The Board shall reply orally or in writing to questions addressed to it by the European Parliament or by the Council, according to its own procedures, in the presence of representatives from any participating Member States whose currency is not the Euro.	6. The Board shall reply orally or in writing to questions addressed to it by the European Parliament or by the Council, according to its own procedures, in the presence of representatives from any participating Member States whose currency is not the Euro. ***The Board shall provide replies within a reasonable period to questions addressed to it.***

Amendment 22

Proposal for a regulation
Article 41 – paragraph 7

Text proposed by the Commission	*Amendment*
7. ***Upon*** request, the Executive Director shall hold confidential oral discussions behind closed doors with the Chair and Deputy-Chairs of the competent committee of the European Parliament where such discussions are required for the exercise of the European Parliament's powers under the Treaty. ***An agreement shall be concluded between the European Parliament and the Board on the detailed modalities of organising such discussions, with a view to ensuring full confidentiality in accordance with the confidentiality obligations imposed on the ECB as a competent authority under relevant Union law.***	7. ***At the request of the European Parliament or at his/her own*** request, the Executive Director shall hold confidential oral discussions behind closed doors with the Chair and ***Coordinators*** of the competent committee of the European Parliament where such discussions are required for the exercise of the European Parliament's powers under the Treaty.

Justification

The provisions concerning the agreement to be concluded between the EP and the Board have been grouped together in a new paragraph 9 under Article 41.

Amendment 23

Proposal for a regulation
Article 41 – paragraph 8

Text proposed by the Commission	*Amendment*
8. During any investigations by the Parliament, the Board shall cooperate with the Parliament, subject to the TFEU. ***The Board and the Parliament shall conclude appropriate arrangements on the practical modalities of the exercise of democratic accountability and oversight over the exercise of the tasks conferred on the Board by this Regulation. Those arrangements shall cover, inter alia, access to information, cooperation in***	8. During any investigations by the Parliament, the Board shall cooperate with the Parliament, subject to the TFEU.

investigations and information on the selection procedure of the Executive Director.

Justification

The provisions concerning the agreement to be concluded between the EP and the Board have been grouped together in a new paragraph 9 under Article 41.

Amendment 24

Proposal for a regulation
Article 41 – paragraph 8 a (new)

Text proposed by the Commission	*Amendment*
	8a. The European Parliament and the Board shall conclude appropriate arrangements on the practical modalities of the exercise of democratic accountability and oversight over the exercise of the tasks conferred on the Board by this Regulation.
	These agreements shall specify the practical organisational arrangements for the confidential closed-door discussions between the Board and the Chairs and Coordinators of the competent committee responsible in order to ensure that they are fully confidential in line with the confidentiality requirements imposed on the ECB as a competent authority by virtue of Union law.
	Those arrangements shall also cover, inter alia, access to information, cooperation in investigations and information on the selection procedure of the Executive Director.

Justification

The provisions concerning the agreement to be concluded between the EP and the Board have been grouped together in a new paragraph 9 under Article 41.

Amendment 25

Proposal for a regulation
Article 42 – paragraph 2

Text proposed by the Commission	*Amendment*
2. The national Parliament of a participating Member State may ***invite*** the Executive Director to participate in an exchange of views in relation to the resolution of credit institutions in that Member State together with a representative of the national resolution authority.	2. The national Parliament of a participating Member State may ***request*** the Executive Director to participate in an exchange of views in relation to the resolution of credit institutions in that Member State together with a representative of the national resolution authority.

Amendment 26

Proposal for a regulation
Article 43 – paragraph 2

Text proposed by the Commission	*Amendment*
2. The members of the Board referred to in Article ***40***(***2***) shall act independently and objectively in the interest of the Union as a whole and shall neither seek nor take instructions from the Union's institutions or bodies, from any Government of a Member State or from any other public or private body.	2. The members of the Board referred to in Article ***39***(***1***) shall act independently and objectively in the interest of the Union as a whole and shall neither seek nor take instructions from the Union's institutions or bodies, from any Government of a Member State or from any other public or private body.

Amendment 27

Proposal for a regulation
Article 45

Text proposed by the Commission	*Amendment*
Participation in plenary sessions	***Convening of and*** participation in plenary sessions ***of the Board***
All members of the Board shall participate in its plenary sessions.	***1. The Executive Director shall convene meetings of the plenary session of the Board.***
	2. The Board in its plenary session shall

hold at least two ordinary meetings a year. In addition, it shall meet on the initiative of the Executive Director, at the request of the Commission, or at the request of at least one third of its members.

3. All members of the Board shall participate in its plenary sessions.

4. The Board in its plenary session may invite observers to attend its meetings on an ad hoc basis.

5. The Board shall provide the secretariat of the plenary session of the Board.

(Linked to the amendment to Article 47.)

Justification

Combining Articles 45 and 47 makes it easier to read the arrangements for the convening of and participation in the plenary sessions and harmonises the structure of the regulation.

Amendment 28

Proposal for a regulation
Article 46 – paragraph 1 – point a

Text proposed by the Commission	*Amendment*
(a) adopt, by 30 November of each year, the Board's annual work programme for the coming year ***in accordance with Article 49(1),*** based on a draft put forward by the Executive Director and shall transmit it for information to the European Parliament, the Council, the Commission, ***and*** the European Central Bank;	(a) adopt, by 30 November of each year, the Board's annual work programme for the coming year based on a draft put forward by the Executive Director and shall transmit it for information to the European Parliament, the Council, the Commission, the European Central Bank ***and the national parliaments***;

Amendment 29

Proposal for a regulation
Article 46 – paragraph 1 – point b

Text proposed by the Commission	*Amendment*
(b) adopt the annual budget of the Board in accordance with Article ***59***(2);	(b) adopt the annual budget of the Board in accordance with Article ***58***(2);

Amendment 30

Proposal for a regulation
Article 46 – paragraph 1 – point d

Text proposed by the Commission	*Amendment*
(d) adopt an annual activity report on the Board's activities referred to in Article ***42***. This report shall present detailed explanations on the implementation of the budget;	(d) adopt an annual activity report on the Board's activities referred to in Article ***41***. This report shall present detailed explanations on the implementation of the budget;

Amendment 31

Proposal for a regulation
Article 47

Text proposed by the Commission	*Amendment*
Article 47	***deleted***
Meeting of the plenary session of the Board	
1. The Executive Director shall convene meetings of the plenary session of the Board.	
2. The Board in its plenary session shall hold at least two ordinary meetings a year. In addition, it shall meet on the initiative of the Executive Director, at the request of the Commission, or at the request of at least one-third of its members.	
3. The Board in its plenary session may invite observers to attend its meetings on an ad hoc basis.	
4. The Board shall provide for the secretariat of the plenary session of the Board.	

(Linked to the amendment to Article 45.)

Amendment 32

Proposal for a regulation
Article 48 – Title

Text proposed by the Commission	*Amendment*
Decision-making process	***Decision-making***

Justification

The same titles should be used for Articles 48 and 51, given that they both concern decision-making.

Amendment 33

Proposal for a regulation
Article 48 – paragraph 1

Text proposed by the Commission	*Amendment*
1. The Board, in its plenary session, shall take its decisions by a simple majority of its members. However, decisions referred to in point (c) of Article ***47***(1) shall be taken by a majority of ***two-thirds*** of its members.	1. The Board, in its plenary session, shall take its decisions by a simple majority of its members. However, decisions referred to in point (c) of Article ***46***(1) shall be taken by a majority of ***two thirds*** of its members.

Amendment 34

Proposal for a regulation
Article 49 – Title

Text proposed by the Commission	*Amendment*
Participation in the executive sessions	***Convening of and*** participation in the executive sessions ***of the Board***

Justification

The same wording should be used for the titles of articles covering the convening of and participation in plenary sessions and executive sessions.

Amendment 35

Proposal for a regulation
Article 49 – paragraph -1 (new)

Text proposed by the Commission	*Amendment*
	-1. The Board, in its executive session, shall meet on the initiative of the Executive Director or at the request of two of its members. The executive sessions shall be chaired by the Executive Director.
	The Board may invite observers to attend its executive sessions on an ad hoc basis.

(Linked to the amendments to Article 50(4) and Article 51(4)(2).)

Justification

This amendment seeks to specify the arrangements for convening the Board's executive sessions, which were originally covered under different provisions in a number of articles.

Amendment 36

Proposal for a regulation
Article 49 – paragraph 1

Text proposed by the Commission	*Amendment*
1. Subject to paragraphs 2 and 3, the members of the Board referred to in Article ***40***(1)(a) to (d) shall participate in the executive sessions of the Board.	1. Subject to paragraphs 2 and 3, the members of the Board referred to in Article ***39***(1)(a) to (d) shall participate in the executive sessions of the Board.

Amendment 37

Proposal for a regulation
Article 49 – paragraph 2

Text proposed by the Commission	*Amendment*
2. When deliberating on an entity referred to in Article 2 or a group of entities established only in one participating Member State, the member appointed by	2. When deliberating on an entity referred to in Article 2 or a group of entities established only in one participating Member State, the member appointed by

that Member State shall also participate in the deliberations and in the decision-making process in accordance with Article ***52***(1) and (3).	that Member State shall also participate in the deliberations and in the decision-making process in accordance with Article ***51***(1) and (3).

Amendment 38

Proposal for a regulation
Article 49 – paragraph 3

Text proposed by the Commission	*Amendment*
3. When deliberating on a cross-border group the member appointed by the Member State in which the group level resolution authority is situated, as well as the members appointed by the Member States in which a subsidiary or entity covered by consolidated supervision is established, shall participate in the deliberations and in the decision-making process in accordance with Article ***52***(2) and (3).	3. When deliberating on a cross-border group the member appointed by the Member State in which the group level resolution authority is situated, as well as the members appointed by the Member States in which a subsidiary or entity covered by consolidated supervision is established, shall participate in the deliberations and in the decision-making process in accordance with Article ***51***(2) and (3).

Amendment 39

Proposal for a regulation
Article 50 – paragraph 4

Text proposed by the Commission	*Amendment*
4. The Board, in its executive session, shall meet on the initiative of the Executive Director or at the request of its members.	4. The Board, in its executive session, shall meet on the initiative of the Executive Director or at the request of ***two of*** its members.

(Linked to the amendments to paragraph -1 of Article 49 and Article 51(4)(2).)

Justification

Linked to the new paragraph -1 of Article 49.

Amendment 40

Proposal for a regulation
Article 50 – paragraph 5

Text proposed by the Commission	*Amendment*
5. The Board, in its plenary session, shall lay down the rules of procedure of the Board in its executive session.	***deleted***

Justification

Provision has already been made for the adoption of the Board's rules of procedure in Article 46(1)(h).

Amendment 41

Proposal for a regulation
Article 51 – paragraph 2

Text proposed by the Commission	*Amendment*
2. When deliberating on a cross-border group, the Board shall take its decisions in its executive sessions by a simple majority of its participating members. The members of the Board referred to in Article ***40***(2) and the member appointed by the Member State in which the group level resolution authority is situated shall each have one vote. The other participating members shall each have a voting right equal to a fraction of one vote and the number of national resolution authorities of the Member States in which a subsidiary or entity covered by consolidated supervision is established. In case of a tie the Executive Director shall have a casting vote.	2. When deliberating on a cross-border group, the Board shall take its decisions in its executive sessions by a simple majority of its participating members. The members of the Board referred to in Article ***39***(2) and the member appointed by the Member State in which the group level resolution authority is situated shall each have one vote. The other participating members shall each have a voting right equal to a fraction of one vote and the number of national resolution authorities of the Member States in which a subsidiary or entity covered by consolidated supervision is established. In case of a tie the Executive Director shall have a casting vote.

Amendment 42

Proposal for a regulation
Article 51 – paragraph 4 – subparagraph 1

Text proposed by the Commission	*Amendment*
The Board, in its executive session, shall adopt and make public the rules of procedure for its executive sessions.	***deleted***

Justification

Provision has already been made for the adoption of the Board's rules of procedure in Article 46(1)(h).

Amendment 43

Proposal for a regulation
Article 51 – paragraph 4 – subparagraph 2

Text proposed by the Commission	*Amendment*
Meetings of the Board in its executive session shall be convened by the Executive Director on his own initiative or upon request of two members, and shall be chaired by the Executive Director. The Board may invite observers to attend its executive sessions on an ad hoc basis.	***deleted***

(Linked to the amendments to paragraph -1 of Article 49 and Article 50(4).)

Amendment 44

Proposal for a regulation
Article 52 – paragraph 2 – point d

Text proposed by the Commission	*Amendment*
(d) implementation of the budget of the Board, in accordance with Article ***59***(3);	(d) implementation of the budget of the Board, in accordance with Article ***58***(3);

Amendment 45

Proposal for a regulation
Article 52 – paragraph 4

Text proposed by the Commission	*Amendment*
4. The Executive Director and the Deputy Executive Director shall be appointed on the basis of merit, skills, knowledge of banking and financial matters, of experience relevant to financial supervision and regulation.	4. The Executive Director and the Deputy Executive Director shall be appointed on the basis of merit, skills, knowledge of banking and financial matters, of experience relevant to financial supervision and regulation. ***Appointments shall also be based as far as possible on the principle of gender equality.***

Amendment 46

Proposal for a regulation
Article 52 – paragraph 5

Text proposed by the Commission	*Amendment*
5. After hearing the Board, in its plenary session, the Commission shall propose a list of candidates to the Council for the appointment of the Executive Director and the Deputy Executive Director. The Council shall appoint the Executive Director and the Deputy Executive Director after ***hearing*** the European Parliament.	5. After hearing the Board, in its plenary session, the Commission shall propose a list of candidates to the Council ***and the European Parliament*** for the appointment of the Executive Director and the Deputy Executive Director. The Council shall appoint the Executive Director and the Deputy Executive Director after ***approval by*** the European Parliament.

Amendment 47

Proposal for a regulation
Article 52 – paragraph 6

Text proposed by the Commission	*Amendment*
6. By derogation from Article ***40***(2), the term of office of the first Deputy Executive Director appointed after the entry into force of this Regulation shall be three years; this term is renewable once for a	6. By derogation from Article ***39***(2), the term of office of the first Deputy Executive Director appointed after the entry into force of this Regulation shall be three years; this term is renewable once for a

period of five years. The Executive Director and the Deputy Executive Director shall remain in office until their successors are appointed.

period of five years. The Executive Director and the Deputy Executive Director shall remain in office until their successors are appointed.

Amendment 48

Proposal for a regulation
Article 52 – paragraph 7

Text proposed by the Commission	*Amendment*
7. An Executive Director or Deputy Executive Director whose term of office has been extended shall not participate in another selection procedure for the same post at the end of the overall period.	***deleted***

Justification

The term of office of the Executive Director and the Deputy Executive Director is laid down in Article 39(2).

Amendment 49

Proposal for a regulation
Article 52 – paragraph 8

Text proposed by the Commission	*Amendment*
8. If the Executive Director or the Deputy Executive Director no longer fulfil the conditions required for the performance of their duties or have been guilty of serious misconduct, the Council may, on a proposal from the Commission and after ***hearing*** the European Parliament, remove the Executive Director or the Deputy Executive Director from office.	8. If the Executive Director or the Deputy Executive Director no longer fulfil the conditions required for the performance of their duties or have been guilty of serious misconduct, the Council may, on a proposal from the Commission and after ***obtaining the approval of*** the European Parliament, remove the Executive Director or the Deputy Executive Director from office.

Amendment 50

Proposal for a regulation
Article 53 – paragraph 2

Text proposed by the Commission	*Amendment*
2. Neither Member States nor any other public or private body shall seek to influence the Executive Director and the Deputy Executive Director in the performance of their tasks.	***deleted***

Amendment 51

Proposal for a regulation
Article 60 – paragraph 3

Text proposed by the Commission	*Amendment*
3. By 31 March of each year the Board, in its executive session, shall transmit to the European Parliament, the Council, the Commission, ***and*** the Court of Auditors accounts of the Board's provisional accounts for the preceding financial year.	3. By 31 March of each year the Board, in its executive session, shall transmit to the European Parliament, the Council, the Commission, the Court of Auditors ***and the national parliaments*** accounts of the Board's provisional accounts for the preceding financial year.

Amendment 52

Proposal for a regulation
Article 60 – paragraph 5

Text proposed by the Commission	*Amendment*
5. The Executive Director shall, by 1 July following each financial year, ***shall*** send the final accounts to the European Parliament, the Council, the Commission, ***and*** the Court of Auditors.	The Executive Director shall, by 1 July following each financial year, send the final accounts to the European Parliament, the Council, the Commission, the Court of Auditors ***and the national parliaments***.

Amendment 53

Proposal for a regulation
Article 87 – paragraph 2 – point a

Text proposed by the Commission	*Amendment*
(a) until the Executive Director takes up his duties following his appointment by the Council in accordance with Article ***53***, the Commission may designate a Commission official to act as interim Executive Director and exercise the duties assigned to the Executive Director;	(a) until the Executive Director takes up his duties following his appointment by the Council in accordance with Article ***52***, the Commission may designate a Commission official to act as interim Executive Director and exercise the duties assigned to the Executive Director;

Amendment 54

Proposal for a regulation
Article 87 – paragraph 2 – point b

Text proposed by the Commission	*Amendment*
(b) by derogation from Article ***47***(1)(i) and until the adoption of a decision as referred to in Article ***47***(2), the interim Executive Director shall exercise the appointing authority powers;	(b) by derogation from Article ***46***(1)(i) and until the adoption of a decision as referred to in Article ***46***(2), the interim Executive Director shall exercise the appointing authority powers;

PROCEDURE

Title	Uniform rules and procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Bank Resolution Fund
References	COM(2013)0520 – C7-0223/2013 – 2013/0253(COD)
Committee responsible Date announced in plenary	ECON 10.9.2013
Opinion by Date announced in plenary	AFCO 10.9.2013
Rapporteur Date appointed	Constance Le Grip 14.10.2013
Discussed in committee	14.10.2013 25.11.2013
Date adopted	25.11.2013
Result of final vote	+: 15 –: 1 0: 0
Members present for the final vote	Andrew Henry William Brons, Zdravka Bušić, Carlo Casini, Andrew Duff, Ashley Fox, Zita Gurmai, Constance Le Grip, Sandra Petrović Jakovina, Paulo Rangel, Luis Yáñez-Barnuevo García
Substitute(s) present for the final vote	Elmar Brok, Vital Moreira, Evelyn Regner, Helmut Scholz, Alexandra Thein
Substitute(s) under Rule 187(2) present for the final vote	Edward McMillan-Scott

PROCEDURE

Title	Uniform rules and procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Bank Resolution Fund			
References	COM(2013)0520 – C7-0223/2013 – 2013/0253(COD)			
Date submitted to Parliament	10.7.2013			
Committee responsible Date announced in plenary	ECON 10.9.2013			
Committee(s) asked for opinion(s) Date announced in plenary	BUDG 10.9.2013	CONT 10.9.2013	JURI 10.9.2013	AFCO 10.9.2013
Not delivering opinions Date of decision	BUDG 5.9.2013	CONT 2.9.2013		
Rapporteur(s) Date appointed	Elisa Ferreira 2.7.2013			
Discussed in committee	17.9.2013	14.10.2013	18.11.2013	
Date adopted	17.12.2013			
Result of final vote	+: –: 0:	34 3 8		
Members present for the final vote	Marino Baldini, Burkhard Balz, Sharon Bowles, Udo Bullmann, Nikolaos Chountis, George Sabin Cutaş, Leonardo Domenici, Derk Jan Eppink, Diogo Feio, Markus Ferber, Elisa Ferreira, Ildikó Gáll-Pelcz, Jean-Paul Gauzès, Sven Giegold, Sylvie Goulard, Liem Hoang Ngoc, Gunnar Hökmark, Othmar Karas, Wolf Klinz, Jürgen Klute, Philippe Lamberts, Werner Langen, Astrid Lulling, Ivana Maletić, Arlene McCarthy, Marlene Mizzi, Ivari Padar, Antolín Sánchez Presedo, Olle Schmidt, Peter Simon, Peter Skinner, Theodor Dumitru Stolojan, Ivo Strejček, Kay Swinburne, Sampo Terho, Marianne Thyssen, Ramon Tremosa i Balcells, Corien Wortmann-Kool, Pablo Zalba Bidegain			
Substitute(s) present for the final vote	Fabrizio Bertot, Zdravka Bušić, Herbert Dorfmann, Bas Eickhout, Vicky Ford, Robert Goebbels, Krišjānis Kariņš			
Substitute(s) under Rule 187(2) present for the final vote	Wim van de Camp			
Date tabled	20.12.2013			