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Committee on Economic and Monetary Affairs

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*****I**

DRAFT 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 1093/2012 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

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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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 1093/2012 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 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 (A7-0000/2013),
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.

Amendment 1

Proposal for a regulation

Recital 2

Text proposed by the Commission

(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

Amendment

(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 may lead to distortions of competition and ultimately to the undermining of the internal market.

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.

Or. en

Amendment 2

Proposal for a regulation Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) The link between sovereigns and the banking sector, which has had devastating effects on the economy throughout the Union during the crisis, should be eliminated to reduce the current fragmentation of financial markets. Although the Banking Union will only be complete after the establishment of a common European Deposit Guarantee Scheme, the creation of a single resolution mechanism is already an essential step in that direction.

Or. en

Amendment 3

Proposal for a regulation Recital 5

Text proposed by the Commission

Amendment

(5) As long as resolution rules, practices and approaches to burden-sharing remain national and the financial resources needed

(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. 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.

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.

Or. en

Amendment 4

Proposal for a regulation Recital 6

Text proposed by the Commission

(6) Directive [] of the European Parliament and of the Council ***has harmonised to a certain extent*** 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 ***complete*** 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 discretion to national authorities in the application of the tools and in the use of national financing arrangements in

Amendment

(6) Directive [] of the European Parliament and of the Council¹ ***is a decisive step forward in the 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

support of resolution procedures. Directive [] does not 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 prevent different approaches by Member States to the use of the financing arrangements.

arrangements in support of resolution procedures. ***Despite the mediation tasks attributed to the European Supervisory Authority (European Banking Authority),*** 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 ***totally*** prevent different approaches by Member States to the use of the financing arrangements. ***There should therefore be a progressive move towards a Union regime for insolvency.***

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

Or. en

Amendment 5

Proposal for a regulation Recital 11

Text proposed by the Commission

(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

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 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.

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 Single Resolution Mechanism impinging directly on the fiscal responsibilities of the Member States.***

Or. en

Amendment 6

Proposal for a regulation Recital 16

Text proposed by the Commission

(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

Amendment

(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, upon notification of the ECB, should provide a recommendation to the Commission. Given the need to balance the different interests at stake the Commission should decide whether or not to place an institution under resolution and should also decide on a clear and detailed resolution framework establishing the resolution actions to be taken by the Board. Within this framework, the Board should decide on a resolution scheme and instruct the national resolution authorities on the resolution tools and powers to be executed at national level.

prospect that any alternative private sector or supervisory action would prevent its failure within a reasonable timeframe. The Board, upon notification of the ECB, should provide a recommendation to the Commission. Given the need to balance the different interests at stake the Commission should decide whether or not to place an institution under resolution and should also decide on a clear and detailed resolution framework, ***as proposed by the Board in its recommendation***, establishing the resolution actions to be taken by the Board. Within this framework, the Board should decide on a resolution scheme and instruct the national resolution authorities on the resolution tools and powers to be executed at national level.

Or. en

Amendment 7

Proposal for a regulation Recital 19

Text proposed by the Commission

(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***

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 ***the*** Deputy Executive Director should be appointed ***on the basis of merit, skills,***

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 Board.*

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 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.

Or. en

Amendment 8

Proposal for a regulation Recital 19 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 9

Proposal for a regulation Recital 19 b (new)

Text proposed by the Commission

Amendment

(19b) It should also be possible to invite observers, including a representative of the European Stability Mechanism (ESM) and of the Euro Group, to attend the meetings of the Board.

Or. en

Amendment 10

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,

(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**.

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, **including permanent access to deposits** to maintain the stability of the financial system **and** to reduce moral hazard by minimising reliance on public financial support to failing institutions.

Or. en

Amendment 11

Proposal for a regulation Recital 35 a (new)

Text proposed by the Commission

Amendment

(35a) Harmonisation of the insolvency laws throughout the Union, which would constitute a major step in the construction of a truly internal market, has not yet been achieved. However, for the entities established in Member States participating in the SSM and those established in other Member States, due to the harmonisation introduced by Directive [], the hierarchy of the claims of the creditors in the case of insolvency, which includes depositors' preferences, will be the same. That harmonisation eliminates an important source of regulatory arbitrage.

Or. en

Amendment 12

Proposal for a regulation Recital 36

Text proposed by the Commission

(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.

Amendment

(36) The Commission should provide, ***following a recommendation by the Board***, 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.

Or. en

Amendment 13

**Proposal for a regulation
Recital 48**

Text proposed by the Commission

(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 ***in exceptional cases and*** where a national resolution authority has not or not sufficiently applied the decision of the Board ***to transfer to another person specified rights, assets or liabilities of*** an institution under resolution ***or to require the conversion of debt instruments which contain a contractual term for conversion in certain circumstances. Any action by national resolution authorities that would restrain or affect the exercise of powers or***

Amendment

(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.

functions of the Board should be excluded.

Or. en

Amendment 14

Proposal for a regulation Recital 53

Text proposed by the Commission

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

Amendment

(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.

Or. en

Amendment 15

Proposal for a regulation Recital 54

Text proposed by the Commission

(54) In order to ensure that decisions adopted within the framework of the single resolution mechanism are respected, proportionate and dissuasive sanctions should be imposed in case of infringement. The Board should be entitled to instruct national resolution authorities to impose ***fines*** or periodic penalty payments on ***undertakings*** 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 ***fines*** and penalty payments.

Amendment

(54) In order to ensure that decisions adopted within the framework of the single resolution mechanism are respected, proportionate and dissuasive sanctions should be imposed in case of infringement. The Board should be entitled to instruct national resolution authorities to impose ***administrative sanctions*** 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 sanctions***

and penalty payments.

Or. en

Amendment 16

Proposal for a regulation Recital 55

Text proposed by the Commission

Amendment

(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.

deleted

Or. en

Amendment 17

Proposal for a regulation Recital 58 a (new)

Text proposed by the Commission

Amendment

(58a) However, it is justified to use the Fund before exhausting all the creditors when, in the resolution process, deposits would start to be bailed-in. The trust of citizens that their savings will be safe in absolutely risk-free deposits that have a correspondingly low return is a cornerstone of the overall confidence in the banking system. Ensuring continuous access to deposits is doubtless one of the critical functions of banks. Furthermore,

the lack of confidence in the safety of deposits has the potential to provoke a bank run; a phenomenon with disastrous effects on financial stability. Thus, safeguarding deposits in the resolution process pursues resolution objectives, therefore deserving a particular effort, independently of the amount of the contribution to loss absorption and recapitalisation that has been made by shareholders and creditors.

Or. en

Amendment 18

Proposal for a regulation Recital 61 a (new)

Text proposed by the Commission

Amendment

(61a) To ensure the immediate availability of adequate financial means for the purposes established in this Regulation, the Fund should only become operational when a loan facility has been established, preferably from a Community public instrument. Full availability of funding is essential for the credibility of the whole system.

Or. en

Amendment 19

Proposal for a regulation Recital 63

Text proposed by the Commission

Amendment

(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 should take

(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**

account of the degree of risk incurred by credit institutions.

to be determined by the Board, following a proposal by the competent authority, should take account of the degree of risk incurred by credit institutions.

Or. en

Amendment 20

Proposal for a regulation Article 5 – paragraph 1

Text proposed by the Commission

1. Where, by virtue of this Regulation, the Commission or the Board exercises tasks or powers, which, according to Directive [] are to be exercised by the national resolution authority of a participating Member State, the Board shall, for the application of this Regulation and Directive [], be considered to be the relevant national resolution authority or, in case of cross-border group resolution, the relevant group ***national*** resolution authority.

Amendment

1. Where, by virtue of this Regulation, the Commission or the Board exercises tasks or powers, which, according to Directive [] 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 [], be considered to be the relevant national resolution authority or, in case of cross-border group resolution, the relevant group ***level*** resolution authority.

Or. en

Amendment 21

Proposal for a regulation Article 6 – paragraph 2 – introductory part

Text proposed by the Commission

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

Amendment

2. When making decisions or taking action, which may have an impact in more than one participating 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:

Or. en

Amendment 22

Proposal for a regulation Article 6 – paragraph 3

Text proposed by the Commission

3. The Commission 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.

Amendment

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.

Or. en

Amendment 23

Proposal for a regulation Article 6 – paragraph 4

Text proposed by the Commission

4. **No decision** of the Board or the Commission shall require Member States to provide extraordinary public financial support.

Amendment

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**.

Or. en

Amendment 24

Proposal for a regulation Article 6 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. When making decisions or taking action, the Board shall inform and consult representatives of the employees of the entities concerned.

Or. en

Amendment 25

Proposal for a regulation

Article 16 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

2. On receiving a communication pursuant to paragraph 1, **or on its own initiative**, the Board shall conduct an assessment of whether the following conditions are met:

2. On receiving a communication pursuant to paragraph 1, the Board shall conduct an assessment of whether the following conditions are met:

Or. en

Amendment 26

Proposal for a regulation

Article 16 – paragraph 5 – point b

Text proposed by the Commission

Amendment

(b) the framework of the resolution tools referred to in Article 19(3);

(b) the framework of the resolution tools referred to in Article 19(2);

Or. en

Amendment 27

Proposal for a regulation

Article 16 – paragraph 6

Text proposed by the Commission

6. Having regard to the urgency of the circumstances in the case, the Commission shall decide, ***on its own initiative or*** taking into account, ***if any***, the communication referred to in paragraph 1 ***or*** the recommendation of the Board referred to in paragraph 5, whether or not to place the entity under resolution, and on the framework of the resolution tools that shall be applied in respect of the entity concerned and of the use of the Fund to support the resolution action. The Commission, ***on its own initiative***, may decide to ***place an entity under resolution if all the conditions*** referred to in paragraph 2 ***are met***.

Amendment

6. Having regard to the urgency of the circumstances in the case, the Commission shall decide, taking into account the communication referred to in paragraph 1 ***and*** the recommendation of the Board referred to in paragraph 5, whether or not to place the entity under resolution, and on the framework of the resolution tools that shall be applied in respect of the entity concerned and of the use of the Fund to support the resolution action. The Commission may decide to ***ask the Board to revise its recommendation*** referred to in paragraph 5.

Or. en

Amendment 28

Proposal for a regulation
Article 16 – paragraph 8

Text proposed by the Commission

8. Within the framework set by the Commission decision, the Board 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 [], in particular those in Articles 56 to 64 of that Directive [].
Where State aid is present, the Board may

Amendment

8. Within the framework set by the Commission decision, the Board 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 [], in particular those in Articles 56 to 64 of that Directive [].

only decide after the Commission has taken a decision on that State aid.

Or. en

Amendment 29

Proposal for a regulation Article 16 – paragraph 9

Text proposed by the Commission

9. *On receiving a communication pursuant to paragraph 1, or on its own initiative*, 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.

Amendment

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.

Or. en

Amendment 30

Proposal for a regulation Article 25 – paragraph 3

Text proposed by the Commission

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

Amendment

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.

Or. en

Amendment 31

Proposal for a regulation

Article 26 – paragraph 1 – subparagraph 2

Text proposed by the Commission

For these purposes, they shall make use of their powers under national law transposing the Directive [] 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).

Amendment

For these purposes, ***subject to this Regulation***, they shall make use of their powers under national law transposing the Directive [] 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).

Or. en

Amendment 32

Proposal for a regulation

Article 26 – paragraph 2 – introductory part

Text proposed by the Commission

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:

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

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

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 ***issue orders directly to*** an institution under resolution.

Or. en

Amendment 33

Proposal for a regulation

Article 32 – paragraph 1 – introductory part

Text proposed by the Commission

1. For the purpose of exercising the tasks referred to in **Articles 7, 8, 11, 16 and 17**, the Board may, either directly or through the national resolution 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:

Amendment

1. For the purpose of exercising the tasks referred to in **this Regulation**, the Board may, either directly or through the national resolution 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:

Or. en

Amendment 34

Proposal for a regulation

Article 33 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. For the purpose of exercising the tasks referred to in **Articles 7, 8, 11, 16 and 17**, 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.

Amendment

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.

Or. en

Amendment 35

Proposal for a regulation

Article 34 – paragraph 1

Text proposed by the Commission

1. For the purpose of exercising the tasks referred to in **Articles 7, 8, 11, 16 and 17**,

Amendment

1. For the purpose of exercising the tasks referred to in **this Regulation**, and subject

and subject to other conditions set out in relevant Union law, the Board may, subject to prior notification to the national resolution authorities concerned, conduct all necessary on-site inspections at the business premises of the legal persons referred to in Article 32(1). 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.

to other conditions set out in relevant Union law, the Board may, subject to prior notification to the national resolution authorities concerned, conduct all necessary on-site inspections at the business premises of the legal persons referred to in Article 32(1). 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.

Or. en

Amendment 36

Proposal for a regulation Article 34 – paragraph 2

Text proposed by the Commission

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 32 (2) and shall have all the powers stipulated in Article 32(1).

Amendment

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).

Or. en

Amendment 37

Proposal for a regulation Article 36 – title

Text proposed by the Commission

Fines

Amendment

Administrative sanctions

Or. en

Amendment 38

Proposal for a regulation

Article 36 – paragraph 1 – subparagraph 1

Text proposed by the Commission

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 **a fine** in respect of the relevant entity referred to in Article 2 in accordance with Directive [].

Amendment

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 sanction** in respect of the relevant entity referred to in Article 2 in accordance with **Article 100 of** Directive [].

Or. en

Amendment 39

Proposal for a regulation

Article 36 – paragraph 2 – introductory part

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 40

Proposal for a regulation

Article 36 – paragraph 2 – point b

Text proposed by the Commission

(b) Where they do not submit to a general investigation in accordance with Article 33 or an on-site **inspections and do not provide the information requested** in

Amendment

(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;

accordance with Article 32;

Or. en

Amendment 41

Proposal for a regulation

Article 36 – paragraph 2 – point d

Text proposed by the Commission

(d) Where they do not comply with a decision addressed to them by the Board pursuant to *Article 24*.

Amendment

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

Or. en

Amendment 42

Proposal for a regulation

Article 36 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 43

Proposal for a regulation

Article 36 – paragraph 4

Text proposed by the Commission

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 ***fin***~~es~~ and periodic penalty payments addressed to the national resolution authorities.

Amendment

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 sanctions*** and periodic penalty payments addressed to the national resolution authorities.

Or. en

Amendment 44

Proposal for a regulation

Article 37 – paragraph 1 – point a

Text proposed by the Commission

(a) ***a credit institution*** to comply with a decision adopted under Article 32;

Amendment

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

Or. en

Amendment 45

Proposal for a regulation

Article 37 – paragraph 2

Text proposed by the Commission

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

Amendment

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.

Or. en

Amendment 46

Proposal for a regulation Article 39 – paragraph 2

Text proposed by the Commission

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.

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 **52**(6), that term shall not be renewable.

Or. en

Amendment 47

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

Text proposed by the Commission

(a) a plenary session of the Board, which shall exercise the tasks set out in Article **47**;

Amendment

(a) a plenary session of the Board, which shall exercise the tasks set out in Article **46**;

Or. en

Amendment 48

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

Text proposed by the Commission

(b) an executive session of the Board, which shall exercise the tasks set out in Article **51**;

Amendment

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

Or. en

Amendment 49

Proposal for a regulation

Article 39 – paragraph 3 – point c

Text proposed by the Commission

(c) an Executive Director, which shall exercise the tasks set out in Article 53.

Amendment

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

Or. en

Amendment 50

Proposal for a regulation

Article 41 – paragraph 6

Text proposed by the Commission

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.*

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.

Or. en

Amendment 51

Proposal for a regulation

Article 41 – paragraph 7

Text proposed by the Commission

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

Amendment

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

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.***

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 [] on the Board, acting as a national resolution authority in accordance with Article 5.***

Or. en

Amendment 52

Proposal for a regulation

Article 42 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

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.

Or. en

Amendment 53

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

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.

State or from any other public or private body.

Or. en

Amendment 54

Proposal for a regulation

Article 46 – paragraph 1 – point a

Text proposed by the Commission

(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;

Amendment

(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 European Central Bank;

Or. en

Amendment 55

Proposal for a regulation

Article 46 – paragraph 1 – point b

Text proposed by the Commission

(b) adopt the annual budget of the Board in accordance with Article **59**(2);

Amendment

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

Or. en

Amendment 56

Proposal for a regulation

Article 46 – paragraph 1 – point d

Text proposed by the Commission

(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;

Amendment

(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;

Or. en

Amendment 57

**Proposal for a regulation
Article 48 – paragraph 1**

Text proposed by the Commission

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.

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 **46**(1) shall be taken by a majority of two-thirds of its members.

Or. en

Amendment 58

**Proposal for a regulation
Article 49 – paragraph 1**

Text proposed by the Commission

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.

Amendment

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

Or. en

Amendment 59

Proposal for a regulation Article 49 – paragraph 2

Text proposed by the Commission

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).

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 that Member State shall also participate in the deliberations and in the decision-making process in accordance with Article 51(1) and (3).

Or. en

Amendment 60

Proposal for a regulation Article 49 – paragraph 3

Text proposed by the Commission

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).

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 **also** participate in the deliberations and in the decision-making process in accordance with Article 51(2) and (3).

Or. en

Amendment 61

Proposal for a regulation Article 49 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

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.

Or. en

Amendment 62

Proposal for a regulation Article 51 – paragraph 2

Text proposed by the Commission

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.

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 ~~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.

Or. en

Amendment 63

Proposal for a regulation Article 51 – paragraph 3

Text proposed by the Commission

Amendment

3. Until the target funding level referred to in Article 65 is reached, a member appointed by a Member State shall be able to require once a further deliberation of the Board where a decision under discussion impinges on the fiscal responsibilities of that Member State.

deleted

Or. en

Amendment 64

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).

Or. en

Amendment 65

Proposal for a regulation

Article 52 – paragraph 2 – point g

Text proposed by the Commission

Amendment

(g) each year **the Executive Director shall prepare** a draft report with a section on the resolution activities of the Board and a section on financial and administrative matters.

(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.

Or. en

Amendment 66

Proposal for a regulation

Article 52 – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

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, on which the European Parliament and the Council shall be kept duly informed.

Or. en

Amendment 67

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. 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.

Or. en

Amendment 68

Proposal for a regulation Article 52 – paragraph 6

Text proposed by the Commission

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 period of five years. The Executive Director and the Deputy Executive Director shall remain in office until their successors are appointed.

Amendment

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.

Or. en

Amendment 69

Proposal for a regulation Article 52 – paragraph 8

Text proposed by the Commission

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.

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, **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.

Amendment 70

Proposal for a regulation

Article 57 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) loans received in the framework of the loan facility referred to in Article 64(2a);

Or. en

Amendment 71

Proposal for a regulation

Article 60 – paragraph 2

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 72

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, and the Court of Auditors the Board's provisional accounts for the preceding financial year.

Amendment 73

Proposal for a regulation Article 60 – paragraph 5

Text proposed by the Commission

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.

Amendment

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.

Amendment 74

Proposal for a regulation Article 60 – paragraph 6

Text proposed by the Commission

6. The Executive Director shall send the Court of Auditors a reply to its observations **by 30 September**.

Amendment

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

Amendment 75

Proposal for a regulation Article 62 – paragraph 3

Text proposed by the Commission

3. **The Board shall determine**, 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,

Amendment

3. **Following a proposal by the competent authority**, in accordance with the delegated acts referred to in paragraph 5, **the Board shall determine** the contributions due by each entity referred to in Article 2 in a decision addressed to the entity concerned.

reporting and other rules ensuring that contributions are fully and timely paid.

The Board shall apply procedural, reporting and other rules ensuring that contributions are fully and timely paid.

Or. en

Amendment 76

Proposal for a regulation

Article 64 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Fund shall be used only after a loan facility has been established, preferably from a Community public instrument, to ensure the immediate availability of adequate financial means for the purposes of this Regulation. Any loan from that loan facility shall be reimbursed by the Fund within an agreed timeframe.

Or. en

Amendment 77

Proposal for a regulation

Article 71 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The Board shall use the Fund to support any of the actions referred to in paragraph 1(a) to (g) where, in the resolution process, the bail-in of deposits would be necessary, regardless of the amount of the contribution to loss absorption and recapitalisation that has been already made by shareholders and creditors.

Or. en

Amendment 78

Proposal for a regulation Article 78 – paragraph 4

Text proposed by the Commission

4. The Board shall compensate a national resolution authority 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, **or constituted a** manifest and serious error of judgement.

Amendment

4. The Board shall compensate a national resolution authority 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.

Or. en

Amendment 79

Proposal for a regulation Article 82 – paragraph 5

Text proposed by the Commission

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

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 **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

the initiative of the European Parliament or the Council.

at the initiative of the European Parliament or the Council.

Or. en

Amendment 80

Proposal for a regulation

Article 87 – paragraph 2 – point b

Text proposed by the Commission

(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;

Amendment

(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;

Or. en

Amendment 81

Proposal for a regulation

Article 88 – paragraph 2

Text proposed by the Commission

Articles 7 to 23 and Articles 25 to **38** shall apply from 1 January 2015.

Amendment

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

Or. en

Amendment 82

Proposal for a regulation

Article 88 – paragraph 3

Text proposed by the Commission

Article 24 shall apply from **1 January 2018**.

Amendment

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

Or. en

EXPLANATORY STATEMENT

- The legislative proposal presented by the Commission, establishing a Single Resolution Mechanism (SRM) for all the credit institutions based in the Euro zone and in other Member States (MS) participating in the Single Supervisory Mechanism (SSM), including a Single Resolution Fund (SRF) financed by all the covered financial institutions, on a ex-ante and risk based principle, is an essential element for the establishment of a true Banking Union. It is an ambitious and balanced proposal, essential to establish a robust framework for dealing with future crises in banks in the Euro zone (and participating Member States), with three main objectives: to avoid cost to taxpayers, to protect deposits and to limit the external damage of a disorderly failure, in particular to the real economy.
- The present proposal, particularly once the SSM was adopted, has become an indispensable building block of the Banking Union architecture. In fact, it would be totally unacceptable that strong European level supervision by the European Central Bank would, in a critical phase, be followed by a hand out of the problematic institution to a national resolution authority intervening on the basis of purely national resolution funding.
- A successful implementation of the present proposal is paramount to destroy the link between banks and sovereigns which proved to be fatal, particularly for the Euro zone, during the crisis. However, full banking union will only be a reality when a common guarantee of deposits is established at the SSM level. Only then economic agents will decide on the basis of the relative soundness of each financial institution rather than on the perceived sovereign risk of the MS where the different institutions are established.
- In the absence of a common European system of protection of depositors, your Rapporteur proposes that actual bail in of deposits should be avoided as much as possible in the SRM, mirroring successfully operating systems such as the FDIC in the USA; this would call, in the resolution process, for the immediate triggering of the

Resolution Fund, together with the adequate resolution tools whenever deposits are about to be touched in the bail-in hierarchy. In such special cases, the use of the Resolution Fund would be admissible, regardless of the amount of the contribution to loss absorption and recapitalisation already made by shareholders and creditors. The purpose of the intervention being to maintain continuity of access to deposits in recognition that trust in deposits is probably the most important element in rebuilding the seriously damaged trust in the Euro zone banking system.

- The credibility of the SRM depends, in particular, on the perceived capacity of the Resolution Fund to support the ambitious tasks foreseen in this Regulation since the moment it is created. The ten years foreseen for the building up of the Fund are a long period; the existence of a robust common backstop, in the shape, for instance, of a public loan facility preferably through a European community instrument, is then a precondition for the operation of the Fund. It is also absolutely essential that the repayment of loans is assumed by the industry financed Fund, guaranteeing total fiscal neutrality of the system.
- Credibility also depends on a clear allocation of responsibilities among the different entities involved in the SRM, avoiding uncertainty, diversity of criteria and eventual conflicts of interest. In that spirit, your Rapporteur clearly favours that resolution action should necessarily be preceded by a communication in that sense from the competent supervisor, in the present case the ECB. Also, although formally the Commission will decide on the resolution process, such decision should always follow a recommendation from the Resolution Board.
- The credibility of SRM calls for particular attention to be paid to the coherence and proportionality among the decisions taken in the different executive sessions of the Board. The European institutions present shall guarantee, not only that the country specific impact of resolution action are duly taken into consideration but also that such recognition does not jeopardize the overall coherence and fairness of the SRM.

- The SRM will address complex issues that directly affect public relevant interest. It is absolutely essential to guarantee democratic legitimacy and accountability, namely towards the European parliament, of the decisions taken, namely in what the selection (and removal) procedure of the Executive Director and Deputy Executive Director of the Single Resolution Board is concerned. The appointment of the Executive Director and Deputy Executive Director of the Single Resolution Board should be conducted with transparency and a clear involvement of the European parliament. In the open selection procedure a series of core principles shall be respected, including competence, independence and respect for the principle of gender balance.
- The close interconnections between the different elements of the banking union call for a particular attention to be paid to the specific timeline of the entering into force of its different instruments. In the present Regulation, the entering into force of the SRM on the 1st January 2015 strongly supports the anticipation of other crucial elements of the resolution system, namely the adoption of bail-in.
- The preservation of the single market further requires a total coherence between the resolution procedures for European Union institutions from MS participating in the banking union and those applicable to institutions from MS remaining outside; the "single rule book" requires, thus, full compatibility between the Recovery and Resolution Directive (RRD) and the procedures included in the present Regulation. Given the fact that negotiations of RRD are still progressing between the Council and the European parliament, your Rapporteur has decided, for methodological reasons, no to amend at the present stage, the RRD related articles in the present Regulation waiting for the developments of the RRD negotiations.