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***I
REPORT

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 575/2013 and Directive 2014/59/EU as regards the prudential treatment of global systemically important institution groups with a multiple point of entry resolution strategy and a methodology for the indirect subscription of instruments eligible for meeting the minimum requirement for own funds and eligible liabilities
(COM(2021)0665 – C9-0398/2021 – 2021/0343(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Jonás Fernández

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.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 575/2013 and Directive 2014/59/EU as regards the prudential treatment of global systemically important institution groups with a multiple point of entry resolution strategy and a methodology for the indirect subscription of instruments eligible for meeting the minimum requirement for own funds and eligible liabilities
(COM(2021)0665 – C9-0398/2021 – 2021/0343(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2021)0665),

– 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 (C9-0398/2021),

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

– having regard to the opinion of the European Central Bank of 13 January 2022,[1]

– having regard to the opinion of the European Economic and Social Committee of 9 December 2021,[2]

– having regard to Rule 59 of its Rules of Procedure,

– having regard to the report of the Committee on Economic and Monetary Affairs (A9-0020/2022),

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

2. Approves its statement annexed to this resolution;

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

[1] Not yet published in the Official Journal.
[2] Not yet published in the Official Journal.

Amendment 1

AMENDMENTS BY THE EUROPEAN PARLIAMENT*

to the Commission proposal

2021/0343 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) No 575/2013 and Directive 2014/59/EU as regards the prudential treatment of global systemically important institution groups with a multiple point of entry resolution strategy and a methodology for the indirect subscription of instruments eligible for meeting the minimum requirement for own funds and eligible liabilities

(Text with EEA relevance)

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[3],

Having regard to the opinion of the European Economic and Social Committee[4],

Acting in accordance with the ordinary legislative procedure,

Whereas:

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

3 OJ C , , p. .

4 OJ C , , p. .

(1) Directive (EU) 2019/879 of the European Parliament and of the Council[5], Regulation (EU) 2019/877 of the European Parliament and of the Council[6] and Regulation (EU) 2019/876 of the European Parliament and of the Council[7] amended the Union bank resolution framework, through amendments to Directive 2014/59/EU of the European Parliament and of the Council[8], Regulation (EU) No 806/2014 of the European Parliament and of the Council[9] and Regulation (EU) No 575/2013 of the European Parliament and of the Council[10]. Those amendments were necessary to implement in the Union the international Total Loss-absorbing Capacity (TLAC) Term Sheet (the 'TLAC standard')[11] for global systemically important banks and to enhance the application of the minimum requirement for own funds and eligible liabilities (MREL) for all banks. The revised Union bank resolution framework should better ensure that the loss absorption and recapitalisation of banks occurs through private means when those banks become financially unviable and are, subsequently, placed in resolution.

(2) Article 12a of Regulation (EU) No 575/2013 provides that global systemically important institution (G-SII) groups with a resolution strategy under which more than one group entity might be resolved (Multiple Point of Entry (MPE) resolution strategy) are to calculate their risk-based requirement for own funds and eligible liabilities under the theoretical assumption that only one entity of the group would be resolved, with the losses and recapitalisation needs of any subsidiaries of that group being transferred to the resolution entity (Single Point of Entry (SPE) resolution strategy). ***A similar requirement is provided for in Article 45d(4) of Directive 2014/59/EU, for the additional requirement for own funds and eligible liabilities that may be imposed by resolution authorities pursuant to paragraph 3 of that Article.*** In line with the TLAC standards, ***those calculations*** should take into account all third-country entities belonging to a G-SII that would be resolution entities were they established in the Union.

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5 Directive (EU) 2019/879 of the European Parliament and of the Council of 20 May 2019 amending Directive 2014/59/EU as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms and Directive 98/26/EC (OJ L 150, 7.6.2019, p. 296).

6 Regulation (EU) 2019/877 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 806/2014 as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms (OJ L 150, 7.6.2019, p. 226).

7 Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (OJ L 150, 7.6.2019, p. 1).

8 Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).

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

10 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).

11 Financial Stability Board, Principles on Loss-absorbing and Recapitalisation Capacity of Globally Systemically Important Banks (G-SIBs) in Resolution, Total Loss-absorbing Capacity (TLAC) Term Sheet, 9.11.2015.

(3) According to Article 45h(2), third subparagraph, of Directive 2014/59/EU, and to the TLAC standard, the sum of the actual requirements for own funds and eligible liabilities of a G-SII group with an MPE resolution strategy must not be lower than that group's theoretical requirement under an SPE resolution strategy. Regulation (EU) No 575/2013, namely Articles 12a and 92a(3), should be aligned with the corresponding provisions of Directive 2014/59/EU and ensure that resolution authorities always act in accordance with that Directive and consider both the requirements for own funds and eligible liabilities laid down in Regulation (EU) No 575/2013 as well as any additional requirement for own funds and eligible liabilities determined in accordance with Article 45d of Directive 2014/59/EU. This should not prevent resolution authorities from concluding that any adjustment to minimise or eliminate the difference between the sum of the actual requirements for own funds and eligible liabilities of a G-SII group with an MPE resolution strategy and that group's theoretical requirement under an SPE resolution strategy, when the former is higher than the latter, would be inappropriate or inconsistent with the G-SII's resolution strategy. ***To ensure consistency between Article 12a of Regulation (EU) No 575/2013 and Article 45h(2) of Directive 2014/59/EU, the calculation referred to in Article 45h(2) of that Directive should also take into account all third-country entities belonging to a G-SII that would be resolution entities if they were established in the Union.***

(4) Article 92b of Regulation (EU) No 575/2013 sets out that the requirement for own funds and eligible liabilities for material subsidiaries of non-EU G-SIIs that are not resolution entities may *inter alia* be met with eligible liabilities instruments. However, the eligibility criteria for eligible liabilities instruments laid down in Article 72b(2), points (c), (k), (l) and (m), of Regulation (EU) No 575/2013 presuppose the issuing entity to be a resolution entity. It should be ensured that those material subsidiaries can issue debt instruments that meet all eligibility criteria, as originally intended.

(5) According to Article 72e(4), first subparagraph, of Regulation (EU) No 575/2013, resolution authorities may permit a G-SII with an MPE resolution strategy to deduct certain holdings of own funds and eligible liabilities instruments of its subsidiaries that do not belong to the same resolution group by deducting a lower, adjusted amount specified by the resolution authority. Article 72e(4), second subparagraph, of that Regulation requires that in such cases, the difference between the adjusted amount and the original amount is deducted from the loss absorbing and recapitalisation capacity of the subsidiaries concerned. In line with the TLAC standard, that approach should take into account the risk-based and non-risk-based requirements for own funds and eligible liabilities of the subsidiary concerned. Furthermore, that approach should be applicable to all third-country subsidiaries belonging to that G-SII, as long as those subsidiaries are subject to a ▌ resolution regime that ***according*** to ***the relevant EU resolution authority, is legally enforceable and implements*** internationally agreed standards***, more specifically the Financial Stability Board's 'Key Attributes of Effective Resolution Regimes for Financial Institutions and its TLAC Standard.***

(6) To operationalise the approach of indirect subscription of internal MREL eligible instruments within resolution groups and to ensure that that approach is prudentially sound, the European Banking Authority (EBA) was mandated under Article 45f(6) of Directive 2014/59/EU***, as amended by Directive (EU) 2019/879,*** to develop draft regulatory technical standards to specify a methodology for such an indirect ***subscription*** of eligible instruments. However, as highlighted by the EBA in its letter to

the Commission dated 25 January 2021, there were several inconsistencies between the requirements for the delegation laid down in Directive 2014/59/EU and the existing prudential rules laid down in Regulation (EU) No 575/2013, which did not allow the application of the prudential treatment needed for the mandate to be fulfilled as originally intended. More precisely, the EBA noted that Regulation (EU) No 575/2013 did not allow for the deduction of internal MREL eligible instruments and, subsequently, for the application of an appropriate risk weight in all the cases relevant for the mandate under Directive 2014/59/EU. Similar issues were identified in the area of the leverage ratio requirement laid down in Regulation (EU) No 575/2013. In light of those legal constraints, the methodology developed by the EBA should be incorporated directly into Regulation (EU) No 575/2013. Consequently, the mandate to develop draft regulatory technical standards set out in Article 45f(6) of Directive 2014/59/EU***, as amended by Directive (EU) 2019/879,*** should be deleted.

(7) In the context of the indirect subscription of internal MREL eligible instruments by resolution entities pursuant to the revised Union bank resolution framework, intermediate ***entities*** should be required to deduct ***the full holding of*** internal MREL eligible resources ***that meet the conditions set out in Article 45f(2) of Directive 2014/59/EU,*** and ***that are*** issued by ***entities that are not themselves resolution entities and which belong*** to the same resolution group ***up to an amount equivalent to the internal MREL requirements of such entities***. This ensures the proper functioning of the internal loss-absorbing and recapitalisation mechanisms within a group and avoids the double-counting of the internal MREL eligible resources of the subsidiary for the purposes of compliance by the intermediate parent with its own internal MREL. ***To ensure that the deduction regime remains proportionate,*** intermediate parents ***should be able to choose*** the ***mix of instruments (own funds versus eligible liabilities) with which they fund*** the ***acquisition of ownership*** of ***internal MREL eligible resources. This would allow intermediate parents to completely avoid any own funds related deductions as long*** as ***they have issued sufficient eligible liabilities***. The deductions should ***therefore*** first be applied to the eligible liabilities items of the intermediate parents. ***Where the intermediate entity is required to comply with internal MREL pursuant to Directive 2014/59/EU on an individual basis, the deductions should be applied to the eligible liabilities meeting the conditions of Article 45f(2) of that Directive.*** In case the amount to be deducted would exceed the amount of the eligible liabilities items of the intermediate parents, the remaining amount should be deducted from their ***Common Equity Tier 1, Additional Tier 1 and Tier 2 items, starting with Tier 2 items in accordance with Article 66, point (e), of Regulation (EU) No 575/2013. In such a case, it is necessary that the deductions corresponding to the remaining amount are also applied when calculating own funds for the purposes of the requirements laid down in Regulation (EU) No 575/2013 and Directive 2013/36/EU[1a]. Otherwise, the solvency ratios of intermediate entities that have issued own funds instruments, rather than eligible liabilities instruments, to fund the acquisition of ownership of internal MREL eligible resources may be overstated. Additionally, by keeping the treatment of holdings of internal MREL eligible resources aligned for prudential and resolution purposes, an undue increase in complexity is avoided, as institutions would be able to continue to calculate, report and disclose one set of total risk exposure amount and total exposure measure for prudential and resolution purposes. Article 49(2) of Regulation (EU) No 575/2013 should thus be amended accordingly. To further enhance the proportionality of the deduction regime, that***

regime should not be applicable in the exceptional cases where, pursuant to Articles 45f(1), third subparagraph, and 45f(4) of Directive 2014/59/EU, internal MREL is applied on a consolidated basis only, in what concerns the holdings of internal MREL eligible resources issued by entities included in the perimeter of consolidation. The same exception should apply when the requirement for own funds and eligible liabilities for material subsidiaries of non-EU G-SIIs laid down in Article 92b of Regulation (EU) No 575/2013 is complied with on a consolidated basis, pursuant to Article 11(3a) of Regulation (EU) No 575/2013.

(8) The indirect subscription of internal MREL eligible instruments should ensure that, when a subsidiary reaches the point of non-viability, losses are effectively passed on to, and the subsidiary concerned is recapitalised by, the resolution entity. Those losses should thus not be absorbed by the intermediate parent, which should become a mere vehicle to pass through those losses to the resolution entity. Consequently, and to ensure that the outcome of the indirect subscription is equivalent to that of a full direct subscription, as envisaged under the mandate set out in Article 45f(6) of Directive 2014/59/EU, the deducted exposures should receive a 0 % risk weight for the calculation of the total risk exposure amount and be excluded from the calculation of the total exposure measure. ***This treatment of not applying risk weights and excluding those exposures from the total exposure measure should be strictly limited to exposures that are deducted in accordance to Article 72e(5), first subparagraph, for the sake of operationalising the approach of indirect subscription of internal MREL eligible instruments.***

(8a) The templates for the public disclosure of harmonised information on the minimum requirement for own funds and eligible liabilities and on the requirement for own funds and eligible liabilities for material subsidiaries of non-EU G-SIIs set out in Commission Implementing Regulation(EU) 2021/763[1a] should be amended to reflect the new deduction regime for internal MREL eligible instruments. The disclosure templates should also be amended to include the total risk exposure amount and the total exposure measure that intermediate entities would have if they did not exclude the exposures deducted under that new deduction regime.

(9) Since the objectives of this Regulation, namely to fully harmonise the prudential treatment of the holdings by intermediate parents of internal MREL eligible resources of their subsidiaries and to revise in a targeted manner the requirements for own funds and eligible liabilities for G-SIIs and for material subsidiaries of non-EU G-SIIs, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(9a) In order to duly assess potential unintended consequences of the indirect subscription of instruments eligible for internal MRE including the new deduction regime, and to ensure a proportionate treatment for different types of banking group structures, among others institutions that have an operating company between the holding company and its subsidiaries, and for entities whose resolution plan provides for their winding up under normal insolvency proceedings in case of failure, and a level playing field between different types of banking group structures, in particular groups

headed by holding companies that may be particularly affected by the new rules, the Commission should review the implementation of the indirect subscription of internal MREL eligible resources by the different types of banking group structures as soon as possible but not later than by 31 December 2022.

(10) To ensure that institutions have sufficient time to implement the dedicated treatment for the indirect subscription of ▌internal MREL ***eligible resources***, including the new deduction regime ***and that markets can digest additional issuances of internal MREL eligible resources, where needed***, the provisions laying down that treatment should become applicable ***on 1 January 2024, in line with*** the ***deadline for compliance with the final MREL requirements.***

(11) Regulation (EU) No 575/2013 and Directive 2014/59/EU should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1
Amendments to Regulation (EU) No 575/2013

Regulation (EU) No 575/2013 is amended as follows:

(1) in Article 4(1), the following point (130a) is inserted:

'(130a) 'relevant third-country authority' means a third-country authority as defined in Article 2(1), point (90), of Directive 2014/59/EU;';

(2) Article 12a is replaced by the following:

'Article 12a
Consolidated calculation for G-SIIs with multiple resolution entities

Where at least two G-SII entities belonging to the same G-SII are resolution entities or third-country entities that would be resolution entities if they were established in the Union, the EU parent institution of that G-SII shall calculate the amount of own funds and eligible liabilities referred to in Article 92a(1), point (a)***, for the following entities:***

(a) each resolution entity or third-country entity that would be a resolution entity if it were established in the Union;

(b) the EU parent institution as if it were the only resolution entity of the G-SII.

The calculation ***referred to in point (b)*** shall be undertaken ***exclusively*** on the basis of the consolidated situation of the EU parent institution▌.

Resolution authorities shall act in accordance with Article***s*** 45d(4) and 45h(2) of Directive 2014/59/EU.';

(3) in Article 49(2), the following subparagraph is added:

'This paragraph shall not apply with regard to the deductions set out in Article 72e(5).';

(4) in Article 72b(2), the following subparagraph is added:

'For the purposes of Article 92b, references to the resolution entity in points (c), (k), (l) and (m) of this paragraph shall also be understood as references to the institution that is a material subsidiary of the non-EU G-SII.';

(5) Article 72e is amended as follows:

(a) paragraph 4 is replaced by the following:

'4. Where an EU parent institution or a parent institution in a Member State that is subject to Article 92a has direct, indirect or synthetic holdings of own funds instruments or eligible liabilities instruments of one or more subsidiaries which do not belong to the same resolution group as that parent institution, the resolution authority of that parent institution, after duly considering the opinion of the resolution authorities or relevant third-country authorities of any subsidiaries concerned, may permit the parent institution to deduct such holdings by deducting a lower amount specified by the resolution authority of that parent institution. That adjusted amount shall be at least equal to the amount (m) calculated as follows:

$m_i = \max\{0; OP_i + LP_i - \max\{0; \beta \cdot [O_i + L_i - \max\{r_i \cdot aRWA_i; w_i \cdot aLRE_i\}]\}\}$

where:

i = the index denoting the subsidiary;

OP_i = the amount of own funds instruments issued by subsidiary i and held by the parent institution;

LP_i = the amount of eligible liabilities instruments issued by subsidiary i and held by the parent institution;

β = percentage of own funds instruments and eligible liabilities instruments issued by subsidiary i and held by the parent undertaking calculated as follows:

$$\beta = \frac{(OP_i + LP_i)}{\textit{the amount of all own funds instruments and eligible liabilities instruments issued by subsidiary i}}$$

O_i = the amount of own funds of subsidiary i, not taking into account the deduction calculated in accordance with this paragraph;

L_i = the amount of eligible liabilities of subsidiary i, not taking into account the deduction calculated in accordance with this paragraph;

r_i = the ratio applicable to subsidiary i at the level of its resolution group in accordance with Article 92a(1), point (a), of this Regulation and Article 45c(3), first subparagraph, point (a), of Directive 2014/59/EU or, for third-country subsidiaries, ***in accordance with legally enforceable national regulations implementing internationally agreed standards,*** applicable to subsidiary i in the third country where it has its head office, insofar as that requirement is met with instruments that would be considered own funds ***under this Regulation,*** or eligible liabilities ***in accordance with the international standards, more specifically the Financial Stability Board's 'Key Attributes of Effective Resolution Regimes for Financial Institutions and its TLAC Standard;***

$aRWA_i$ = the total risk exposure amount of the G-SII entity i calculated in accordance with Article 92(3), taking into account the adjustments set out in Article 12a ***of this Regulation, or, for third-country subsidiaries, in accordance with the applicable national regulation***;

w_i = the ratio applicable to subsidiary i at the level of its resolution group in accordance with Article 92a(1), point (b), of this Regulation and of Article 45c(3), first subparagraph, point (b), of Directive 2014/59/EU or, for third-country subsidiaries, ***in accordance with legally enforceable national regulations implementing internationally agreed standards,*** applicable to subsidiary i in the third country where it has its head office, insofar as that requirement is met with instruments that would be considered own funds or eligible liabilities under this Regulation;

$aLRE_i$ = the total exposure measure of the G-SII entity i calculated in accordance with Article 429(4) ***of this Regulation, or, for third-country subsidiaries, calculated in accordance with the applicable national regulation***.

Where the parent institution is allowed to deduct the adjusted amount in accordance with the first subparagraph, the difference between the amount of holdings of own funds instruments and eligible liabilities instruments referred to in the first subparagraph and that adjusted amount shall be deducted by the subsidiary.';

(aa) In Article 72e, the following paragraph is inserted:

'(4a) By way of derogation from paragraph 4 and until 31 December 2024 the resolution authority of a parent institution, after duly considering the opinion of the resolution authorities or relevant third-country authorities of any subsidiaries concerned, may permit that the adjusted amount m_i is calculated by using the following definition of r_i, and w_i:

r_i = the total risk-based capital requirement applicable to subsidiary i in the third country where it has its head office, insofar as those requirements are met with instruments that would be considered own funds under this Regulation;

w_i = the total non-risk-based capital requirement applicable to subsidiary i in the third country where it has its head office, insofar as that requirement is met with instruments that would be considered own funds under this Regulation.

The resolution authority may grant the permission referred to in the first subparagraph where the subsidiary is established in a third country that does not yet have in place an applicable local resolution regime and if at least one of the following conditions is met:

(a) there is no generally applicable current or immediately foreseen material practical or legal impediment to the prompt transfer of assets from the subsidiary to the parent institution;

(b) the relevant third-country authority of the subsidiary has provided an opinion to the resolution authority of the parent institution that assets equal to the amount to be deducted by the subsidiary in accordance with Article

72e(4), second paragraph, could be transferred from the subsidiary to the parent institution.';

(b) the following paragraph is added:

'5. Institutions and entities ▌ shall deduct from eligible liabilities items their holdings of own funds ***instruments*** and eligible liabilities ***instruments where all of*** the ***following*** conditions***are met:***

(a) the own funds instruments and eligible liabilities instruments are held by an institution or entity that is not itself a resolution entity but that is a subsidiary of a resolution entity or of a third-country entity that would be a resolution entity if it were established in the Union;

(b) the institution or entity referred to in point (a) is required to comply with the requirements laid down in Article 92b of this Regulation or in Article 45f ▌ of ▌ Directive ***2014/59/EU;***

(c) the own funds instruments and eligible liabilities instruments held by the institution or entity referred to in point (a) were issued by an institution or entity referred to in Article 92b(1) of this Regulation or in Article 45f(1) of Directive 2014/59/EU that ***is not itself a resolution entity and that belongs*** to the same resolution group ***as the institution or entity referred to in point (a).***

The deduction ***established in the first subparagraph shall be limited to the amount of own funds instruments and eligible liabilities instruments held by the institution or entity referred to in point (a) of the first subparagraph that have been issued by the institution or entity referred to in point (c) of the first subparagraph of this paragraph in order to comply with the requirements set out in Article 45(2), points (a) and (b), of Directive 2014/59/EU.***

When calculating the limit referred to in the second subparagraph, direct issuances of own funds instruments and eligible liabilities instruments from an institution or entity referred to in point (c) of the first subparagraph to the relevant resolution entity shall be accounted for first, and shall reduce the amount required to be deducted under the first sub-paragraph by the amount of own funds instruments and eligible liabilities instruments already directly issued.

By way of derogation from the first subparagraph, holdings of own funds instruments and eligible liabilities instruments shall not ***be deducted where the institution or entity referred to in point (a) is*** required to comply with the requirement referred to in ***point (b)*** on a consolidated basis ***and the institution or entity referred to in point (c) is included in the consolidation of the institution or entity referred to in point (a) in accordance with Part One, Title II, Chapter 2.***

For the purposes of this paragraph, the reference to eligible liabilities items

shall ▌ be understood as a reference to*:*

(a) eligible liabilities items taken into account for the purposes of complying with the requirement in Article 92b;

(b) eligible liabilities that meet the conditions of Article 45f(2), point (a), of Directive 2014/59/EU.

For the purposes of this paragraph, the reference to own funds instruments and eligible liabilities instruments shall be understood as a reference to:

(***a) own funds instruments and eligible liabilities instruments that meet the conditions of Article 92b, paragraphs 2 and 3;***

(b) own funds and liabilities that meet the conditions of Article 45f(2) of Directive 2014/59/EU.';

(6) in Article 92a, paragraph 3 is deleted;

(7) in Article 113, paragraph 1 is replaced by the following:

'1. To calculate risk-weighted exposure amounts, risk weights shall be applied to all exposures, unless ***the exposures are*** deducted from own funds or ***eligible liabilities*** subject to the treatment set out in Article 72e(5), first subparagraph, in accordance with the provisions of Section 2. The application of risk weights shall be based on the exposure class to which the exposure is assigned and, to the extent specified in Section 2, its credit quality. Credit quality may be determined by reference to the credit assessments of ECAIs or the credit assessments of export credit agencies in accordance with Section 3.';

(8) in Article 151, paragraph 1 is replaced by the following:

'1. The risk-weighted exposure amounts for credit risk for exposures belonging to one of the exposure classes referred to in Article 147(2), points (a) to (e) and point (g), shall, unless ***the exposures are*** deducted from own funds or ***eligible liabilities*** subject to the treatment set out in Article 72e(5), first subparagraph, be calculated in accordance with Sub-section 2.';

(9) in Article 429a(1), the following point (q) is added:

'(q) the ***exposures*** that are subject to the treatment set out in Article 72e(5), first subparagraph.'.

Article 2
*Amendment**s** to Directive 2014/59/EU*

Directive 2014/59/EU is amended as follows:

(1) In Article 45d, paragraph 4 is replaced by the following:

'4. For the purposes of Article 45h(2), where more than one G-SII entity belonging to the same G-SII are resolution entities or third-country entities that

would be resolution entities if they were established in the Union, the relevant resolution authorities shall calculate the amount referred to in paragraph 3:

(a) for each resolution entity or third-country entity that would be a resolution entity if it was established in the Union;

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

(2) In Article 45f, paragraph 6 is deleted.

(3) In Article 45h, paragraph 2 is replaced by the following:

'2. Where more than one G-SII entity belonging to the same G-SII are resolution entities or third-country entities that would be resolution entities if they were established in the Union, the resolution authorities referred to in paragraph 1 shall discuss and, where appropriate and consistent with the G-SII's resolution strategy, agree on the application of Article 72e of Regulation (EU) No 575/2013 and any adjustment to minimise or eliminate the difference between the sum of the amounts referred to in of Article 45d(4), point (a), and Article 12a, point (a), of Regulation (EU) No 575/2013 for individual resolution entities or third-country entities and the sum of the amounts referred to in Article 45d(4), point (b), and Article 12a, point (b), of Regulation (EU) No 575/2013.

Such an adjustment may be applied subject to the following:

(a) the adjustment may be applied in respect of differences in the calculation of the total risk exposure amounts between the relevant Member States or third countries by adjusting the level of the requirement;

(b) the adjustment shall not be applied to eliminate differences resulting from exposures between resolution groups.

The sum of the amounts referred to in Article 45d(4), point (a), of this Directive and Article12a, point (a), of Regulation (EU) No 575/2013 for individual resolution entities or third-country entities that would be resolution entities if they were established in the Union shall not be lower than the sum of the amounts referred to in Article 45d(4), point (b), of this Directive and Article 12a, point (b), of Regulation (EU) No 575/2013.';

(4) In Article 129, the following subparagraph is added:

'By 31 December 2022, the Commission shall review the implementation of the indirect subscription of instruments eligible for meeting the minimum requirement for own funds and eligible liabilities by the different types of banking group structures, among others the case where institutions have an operating company between the holding company and its subsidiaries, and review the treatment of entities, the resolution plan of which provides that they are to be wound up under

normal insolvency proceedings under the rules governing the minimum requirement for own funds and eligible liabilities. The Commission shall submit a report thereon to the European Parliament and to the Council. Where appropriate, that report shall be accompanied by a legislative proposal.'

Article 3
Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
It shall apply from [*OP please insert the date = date of entry into force*].
However, Article 1, point (3), point (5)(b), and points (7), (8) and (9) and Article 2 shall apply from ***1 January 2024.***

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

Done at Brussels,

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

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Amending Regulation (EU) No 575/2013 and Directive 2014/59/EU as regards the prudential treatment of global systemically important institution groups with a multiple point of entry resolution strategy and a methodology for the indirect subscription of instruments eligible for meeting the minimum requirement for own funds and eligible liabilities
References	COM(2021)0665 – C9-0398/2021 – 2021/0343(COD)
Date submitted to Parliament	28.10.2021
Committee responsible Date announced in plenary	ECON 22.11.2021
Rapporteurs Date appointed	Jonás Fernández 25.10.2021
Discussed in committee	13.1.2022
Date adopted	2.2.2022
Result of final vote	+: 45 –: 2 0: 11
Members present for the final vote	Rasmus Andresen, Gerolf Annemans, Gunnar Beck, Marek Belka, Isabel Benjumea Benjumea, Stefan Berger, Gilles Boyer, Carlo Calenda, Engin Eroglu, Markus Ferber, Jonás Fernández, Raffaele Fitto, Frances Fitzgerald, José Manuel García-Margallo y Marfil, Luis Garicano, Valentino Grant, Claude Gruffat, José Gusmão, Enikő Győri, Eero Heinäluoma, Michiel Hoogeveen, Danuta Maria Hübner, Stasys Jakeliūnas, France Jamet, Othmar Karas, Billy Kelleher, Georgios Kyrtsos, Ioannis Lagos, Aurore Lalucq, Aušra Maldeikienė, Pedro Marques, Costas Mavrides, Csaba Molnár, Siegfried Mureşan, Caroline Nagtegaal, Luděk Niedermayer, Lefteris Nikolaou-Alavanos, Piernicola Pedicini, Lídia Pereira, Sirpa Pietikäinen, Dragoş Pîslaru, Evelyn Regner, Antonio Maria Rinaldi, Dorien Rookmaker, Alfred Sant, Joachim Schuster, Ralf Seekatz, Pedro Silva Pereira, Paul Tang, Irene Tinagli, Ernest Urtasun, Inese Vaidere, Johan Van Overtveldt, Stéphanie Yon-Courtin, Marco Zanni, Roberts Zīle
Substitutes present for the final vote	Damien Carême, Ville Niinistö, Linea Søgaard-Lidell
Date tabled	4.2.2022

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

45	+
ECR	Raffaele Fitto, Michiel Hoogeveen, Dorien Rookmaker, Johan Van Overtveldt, Roberts Zīle
ID	Valentino Grant, Antonio Maria Rinaldi, Marco Zanni
NI	Enikő Győri
PPE	Isabel Benjumea Benjumea, Stefan Berger, Markus Ferber, Frances Fitzgerald, José Manuel García-Margallo y Marfil, Danuta Maria Hübner, Othmar Karas, Georgios Kyrtsos, Aušra Maldeikienė, Siegfried Mureşan, Luděk Niedermayer, Lídia Pereira, Sirpa Pietikäinen, Ralf Seekatz, Inese Vaidere
Renew	Gilles Boyer, Carlo Calenda, Engin Eroglu, Luis Garicano, Billy Kelleher, Caroline Nagtegaal, Dragoş Pîslaru, Linea Søgaard-Lidell, Stéphanie Yon-Courtin
S&D	Marek Belka, Jonás Fernández, Eero Heinäluoma, Aurore Lalucq, Pedro Marques, Costas Mavrides, Csaba Molnár, Evelyn Regner, Alfred Sant, Pedro Silva Pereira, Paul Tang, Irene Tinagli

2	-
NI	Lefteris Nikolaou-Alavanos
The Left	José Gusmão

11	0
ID	Gerolf Annemans, Gunnar Beck, France Jamet
NI	Ioannis Lagos
Verts/ALE	Rasmus Andresen, Damien Carême, Claude Gruffat, Stasys Jakeliūnas, Ville Niinistö, Piernicola Pedicini, Ernest Urtasun

Key to symbols:
+ : in favour
- : against
0 : abstention