



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Economic and Monetary Affairs

2012/0150(COD)

20.12.2012

AMENDMENTS 1330 - 1684

Draft report

Gunnar Hökmark

(PE497.897v01-00)

on the proposal for a 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

Proposal for a directive

(COM(2012)0280 – C7-0136/2012 – 2012/0150(COD))

AM\922622EN.doc

PE502.091v01-00

EN

United in diversity

EN

AM_Com_LegReport

Amendment 1330

Elisa Ferreira

Proposal for a directive

Article 74 – paragraph 1

Text proposed by the Commission

1. Member States shall require the management body of an institution to notify the competent authority where they consider that the institution is failing or likely to fail, within the meaning specified in Article 27(2).

Amendment

1. Member States shall require the management body of an institution to notify the competent authority **and the resolution authority** where they consider that the institution is failing or likely to fail, within the meaning specified in Article 27(2).

Or. en

Amendment 1331

Elisa Ferreira

Proposal for a directive

Article 74 – paragraph 2

Text proposed by the Commission

2. Competent authorities shall inform the relevant resolution authorities of any measures they require an institution to take under **Article 22** of this Directive or Article 136(1) of Directive 2006/48/EC.

Amendment

2. Competent authorities shall inform the relevant resolution authorities of any measures they require an institution to take under **Article 23** of this Directive or Article 136(1) of Directive 2006/48/EC.

Or. en

Amendment 1332

Elisa Ferreira

Proposal for a directive

Article 74 – paragraph 3 – point e a (new)

Text proposed by the Commission

Amendment

(e a) where the institution is an institution

as defined in Article 2(b) of Directive 98/26/EC, the Commission, the ECB, the EBA, the ESMA, the EIOPA and the operators of the systems to which it participates;

Or. en

Amendment 1333
Sharon Bowles

Proposal for a directive
Article 74 – paragraph 3 – point e a (new)

Text proposed by the Commission

Amendment

(e a) where the institution is an institution as defined in Article 2(b) of Directive 98/26/EC, the Commission, the ECB, ESMA, EIOPA, EBA and the operators of the systems to which it participates.

Or. en

Amendment 1334
Elisa Ferreira

Proposal for a directive
Article 74 – paragraph 3 – point e b (new)

Text proposed by the Commission

Amendment

(e b) where the institution is considered systemically important, the ESRB and macro-prudential authorities.

Or. en

Amendment 1335
Sharon Bowles

Proposal for a directive
Article 74 – paragraph 3 – point e b (new)

Text proposed by the Commission

Amendment

(e b) where the institution is considered systemically important, the ESRB and macro-prudential authorities.

Or. en

Amendment 1336
Olle Ludvigsson

Proposal for a directive
Article 74 – paragraph 5 – subparagraph 3

Text proposed by the Commission

Amendment

The authority or authorities responsible for that decision shall notify the institution in question. A notification pursuant to this paragraph may take the form of the public notification referred to in paragraph 6.

The authority or authorities responsible for that decision shall notify the institution in question. A notification pursuant to this paragraph may take the form of the public notification referred to in paragraph 6. ***If the notification is not made public in accordance with paragraph 6, the management body shall without any delay inform the employees and their representatives about it.***

Or. en

Amendment 1337
Olle Ludvigsson

Proposal for a directive
Article 74 – paragraph 6

Text proposed by the Commission

Amendment

6. Where the resolution authority takes a resolution action, it shall make that action public and shall take reasonable steps to notify all known shareholders and

6. Where the resolution authority takes a resolution action, it shall make that action public and shall take reasonable steps to notify all known shareholders and

creditors, in particular retail investors, affected by the exercise of the resolution power. The measures specified in Article 75(4) shall be deemed reasonable steps for the purposes of this paragraph.

creditors, in particular **employees and** retail investors, affected by the exercise of the resolution power. The measures specified in Article 75(4) shall be deemed reasonable steps for the purposes of this paragraph.

Or. en

Amendment 1338

Elisa Ferreira

Proposal for a directive

Article 74 – paragraph 7 – introductory part

Text proposed by the Commission

7. A resolution authority shall publish a notice specifying the terms and period of **that** suspension in accordance with the procedure specified in Article 75(4) where it exercises resolution powers, and in particular:

Amendment

7. A resolution authority shall publish a notice specifying the terms and period of **a** suspension in accordance with the procedure specified in Article 75(4) where it exercises resolution powers, and in particular:

Or. en

Amendment 1339

Ślawomir Nitras

Proposal for a directive

Article 74 – paragraph 8 – subparagraph 1 – introductory part

Text proposed by the Commission

EBA shall develop draft regulatory **technical standards** in order to specify the procedures, contents and conditions related to the following requirements:

Amendment

EBA shall develop draft regulatory **guidelines** in order to specify the procedures, contents and conditions related to the following requirements:

Or. en

Amendment 1340

Ślawomir Nitras

Proposal for a directive
Article 74 – paragraph 8 – subparagraph 2

Text proposed by the Commission

EBA shall submit those draft regulatory ***technical standards*** to the Commission within twelve months from the date of entry into force of this Directive.

Amendment

EBA shall submit those draft regulatory ***guidelines*** to the Commission within twelve months from the date of entry into force of this Directive.

Or. en

Amendment 1341
Śławomir Nitras

Proposal for a directive
Article 74 – paragraph 8 – subparagraph 3

Text proposed by the Commission

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

Amendment

deleted

Or. en

Amendment 1342
Elisa Ferreira

Proposal for a directive
Article 75 – paragraph 2 – subparagraph 2

Text proposed by the Commission

A notification according to this paragraph shall include a copy of any order or instrument by which the relevant powers are exercised and shall indicate the date from which the resolution actions are effective.

Amendment

deleted

Amendment 1343
Elisa Ferreira

Proposal for a directive
Article 75 – paragraph 3

Text proposed by the Commission

3. The notification referred to in paragraph 2 shall include a copy of any order or instrument by which the relevant powers are exercised and indicate the date from which the ***tool is or*** powers are effective.

Amendment

3. The notification referred to in paragraph 2 shall include a copy of any order or instrument by which the relevant powers are exercised and indicate the date from which the ***resolution actions, tools and*** powers are effective.

Or. en

Amendment 1344
Wolf Klinz

Proposal for a directive
Article 75 – paragraph 4 – point b

Text proposed by the Commission

(b) on the website of the competent authority, if different from the resolution authority, ***or*** on the website of EBA;

Amendment

(b) on the website of the competent authority, if different from the resolution authority, ***and*** on the website of EBA;

Or. en

Amendment 1345
Elisa Ferreira

Proposal for a directive
Article 75 – paragraph 4 – point b

Text proposed by the Commission

(b) on the website of the competent

Amendment

(b) on the website of the competent

authority, if different from the resolution authority, **or** on the website of EBA;

authority, if different from the resolution authority, **and** on the website of EBA;

Or. en

Amendment 1346
Elisa Ferreira

Proposal for a directive
Article 75 – paragraph 5

Text proposed by the Commission

5. The resolution authority shall ensure that the documents providing proof of the instruments referred to in paragraph 4 are sent to the known shareholders and creditors of the institution under resolution.

Amendment

5. The resolution authority shall ensure that the documents providing proof of the instruments referred to in paragraph 4 are sent to the known shareholders and creditors of the institution under resolution, ***if the latter's shares or instruments of ownership are not admitted to trading on a regulated market.***

Or. en

Amendment 1347
Diogo Feio

Proposal for a directive
Article 75 – paragraph 5

Text proposed by the Commission

5. The resolution authority shall ensure that the documents providing proof of the instruments referred to in paragraph 4 are sent to the known shareholders and creditors of the institution under resolution.

Amendment

5. The resolution authority shall ensure that the documents providing proof of the instruments referred to in paragraph 4 are sent to the known shareholders and creditors of the institution under resolution, ***if the latter's share or instruments of ownership are not admitted to trading on a regulated market.***

Or. en

Justification

Only if the institution is not admitted to trading on a regulated market shall this provision prevail, because if not, the website of supervision authorities and regulated markets are already one of the most important means of disclosure to the markets, making the sending information to all shareholders and creditors excessive and unnecessary burden.

Amendment 1348 **Jean-Paul Gauzès**

Proposal for a directive **Article 76 – paragraph 1 – point a**

Text proposed by the Commission

(a) resolution authorities;

Amendment

(a) resolution authorities. ***Only a very limited number of executives within authorities should have access to plans.***

Or. en

Amendment 1349 **Jean-Paul Gauzès**

Proposal for a directive **Article 76 – paragraph 1 – point c**

Text proposed by the Commission

(c) competent ministries;

Amendment

(c) competent ministries; ***Infringement of confidentiality requirement should be subject to appeal before the court and indemnification;***

Or. en

Amendment 1350 **Wolf Klinz**

Proposal for a directive **Article 76 – paragraph 1 – point d**

Text proposed by the Commission

(d) employees or former employees of the authorities referred to in **points** (a) and (b);

Amendment

(d) employees or former employees of the authorities referred to in **points** (a), (b) and (c);

Or. en

Amendment 1351

Elisa Ferreira

Proposal for a directive

Article 76 – paragraph 1 – point d

Text proposed by the Commission

(d) employees or former employees of the authorities referred to in points (a) and (b);

Amendment

(d) employees or former employees of the authorities referred to in points (a) and (b), **as well as individuals who provide or have provided any service, directly or indirectly, permanently or occasionally, related to the discharge of those authorities' duties;**

Or. en

Amendment 1352

Wolf Klinz

Proposal for a directive

Article 76 – paragraph 1 – point e

Text proposed by the Commission

(e) special managers appointed under **Article 24;**

Amendment

(e) special managers appointed under **provisions of this Directive;**

Or. en

Amendment 1353

Elisa Ferreira

Proposal for a directive
Article 76 – paragraph 1 – point i a (new)

Text proposed by the Commission

Amendment

(i a) employees or former employees of the entities referred to in points (f) to (i), as well as individuals who provide or have provided any service, directly or indirectly, permanently or occasionally, related to the exercise of those entities' activities;

Or. en

Amendment 1354
Elisa Ferreira

Proposal for a directive
Article 76 – paragraph 1 – point i b (new)

Text proposed by the Commission

Amendment

(i b) the management appointed by the resolution authority to a bridge institution, asset management or other resolution vehicle and the employees or former employees of these entities, as well as individuals who provide or have provided any service, directly or indirectly, permanently or occasionally, related to the exercise of those entities' activities;

Or. en

Amendment 1355
Jean-Paul Gauzès

Proposal for a directive
Article 76 – paragraph 2

Text proposed by the Commission

Amendment

2. Without prejudice to the generality of the requirements under paragraph 1, the

2. Without prejudice to the generality of the requirements under paragraph 1, the

persons referred to in that paragraph shall be prohibited from divulging confidential information received during the course of their professional activities, or from a resolution authority in connection with its functions, to any person or authority unless it is in summary or collective form such that individual institutions cannot be identified or with the express and prior consent of the resolution authority.

persons referred to in that paragraph shall be prohibited from divulging confidential information received during the course of their professional activities, or from a resolution authority in connection with its functions, to any person or authority unless it is in summary or collective form such that individual institutions cannot be identified or with the express and prior consent of the resolution authority. ***The resolution authority shall be the single entry point for the information mentioned in the first subparagraph and shall be bound by a strict confidentiality agreement. The resolution authority shall then be responsible for ensuring that confidentiality requirements are respected.***

Or. en

Amendment 1356
Olle Schmidt

Proposal for a directive
Article 76 – paragraph 2

Text proposed by the Commission

2. Without prejudice to the generality of the requirements under paragraph 1, the persons referred to in that paragraph shall be prohibited from divulging confidential information received during the course of their professional activities, or from a resolution authority in connection with its functions, to any person or authority unless it is in summary or collective form such that individual institutions cannot be identified or with the express and prior consent of the resolution authority.

Amendment

2. Without prejudice to the generality of the requirements under paragraph 1, the persons referred to in that paragraph shall be prohibited from divulging confidential information received during the course of their professional activities, or from a resolution authority in connection with its functions, to any person or authority unless it is in summary or collective form such that individual institutions cannot be identified or with the express and prior consent of the resolution authority. ***In particular, Member States shall ensure that resolution authorities, competent authorities and competent ministries shall not disclose:***

(a) the contents and details of recovery and resolution plans provided for in Articles 5, 7, 9, 10, and 11;

(b) the results of any assessment carried out under Articles 6, 8 and 13

Or. en

Justification

Information provided to authorities in relation to recovery and resolution planning and the assessments of both elements should be confidential. These documents will contain a lot of highly sensitive information which is both proprietary and/or commercially sensitive. An explicit provision should be included to protect authorities from having to disclose any of this detail under freedom of information legislation.

Amendment 1357
Peter Simon

Proposal for a directive
Article 76 – paragraph 2

Text proposed by the Commission

2. Without prejudice to the generality of the requirements under paragraph 1, the persons referred to in that paragraph shall be prohibited from divulging confidential information received during the course of their professional activities, or from a resolution authority in connection with its functions, to any person or authority unless it is in summary or collective form such that individual institutions cannot be identified or with the express and prior consent of the resolution authority.

Amendment

2. Without prejudice to the generality of the requirements under paragraph 1, the persons referred to in that paragraph shall be prohibited from divulging confidential information received during the course of their professional activities, or from a resolution authority in connection with its functions, to any person or authority unless it is in summary or collective form such that individual institutions cannot be identified or with the express and prior consent of the resolution authority. ***This shall apply in particular to the content and details of recovery and resolution plans in accordance with Articles 5, 7, 9, 10 and 11, and to the results of assessments in accordance with Articles 6, 8 and 13.***

Or. de

Amendment 1358
Gunnar Hökmark

Proposal for a directive
Article 76 – paragraph 2 - subparagraph 1a (new)

Text proposed by the Commission

Amendment

This prohibition applies notwithstanding Regulation (EC) 1049/2001 and Member States shall ensure that it applies notwithstanding national legislation concerning freedom of information and access to documents.

Or. en

Amendment 1359
Wolf Klinz

Proposal for a directive
Article 76 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Without prejudice to the generality of the requirements under paragraph 1, the persons referred to in that paragraph shall be prohibited from divulging:

(a) the contents and details of recovery and resolution plans provided for in Articles 5, 7, 9, 10, and 11;

(b) the results of any assessment carried out under Articles 6, 8 and 13.

Or. en

Amendment 1360
Gianni Pittella

Proposal for a directive
Article 76 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. The resolution authority shall be the single entry point for the information mentioned in the first subparagraph and shall be bound by a strict confidentiality agreement. The resolution authority shall then be responsible for ensuring that confidentiality requirements are respected.

Or. en

Amendment 1361
Wolf Klinz

Proposal for a directive
Article 76 – paragraph 3

Text proposed by the Commission

Amendment

3. The confidentiality requirements set out in **paragraphs 1 and 2** of this Article shall not prevent resolution authorities, including their employees, from sharing information with other Union resolution authorities, competent authorities, central banks, EBA, or, subject to Article 90, third country authorities that carry out equivalent functions to resolution authorities for the purposes of planning or carrying out a resolution action.

3. The confidentiality requirements set out in **paragraphs 1, 2 and (2a)** of this Article shall not prevent resolution authorities, including their employees, from sharing information with other Union resolution authorities, competent authorities, central banks, EBA, or, subject to Article 90, third country authorities that carry out equivalent functions to resolution authorities for the purposes of planning or carrying out a resolution action.

Or. en

Amendment 1362
Elisa Ferreira

Proposal for a directive
Article 76 – paragraph 3

Text proposed by the Commission

3. The confidentiality requirements set out in paragraphs 1 and 2 of this Article shall not prevent resolution authorities, including their employees, from sharing information with other Union resolution authorities, competent authorities, central banks, EBA, or, subject to **Article 90**, third country authorities that carry out equivalent functions to resolution authorities for the purposes of planning or carrying out a resolution action.

Amendment

3. The confidentiality requirements set out in paragraphs 1 and 2 of this Article shall not prevent resolution authorities, including their employees, from sharing information with other Union resolution authorities, competent authorities, central banks, EBA, or, subject to **Articles 84 to 88**, third country authorities that carry out equivalent functions to resolution authorities for the purposes of planning or carrying out a resolution action.

Or. en

Amendment 1363
Slawomir Nitras

Proposal for a directive
Article 76 – paragraph 5 – subparagraph 1

Text proposed by the Commission

EBA shall develop draft implementing **technical standards** to specify how information should be provided in summary or collective form for the purposes of paragraph 2.

Amendment

EBA shall develop draft implementing **guidelines** to specify how information should be provided in summary or collective form for the purposes of paragraph 2.

Or. en

Amendment 1364
Slawomir Nitras

Proposal for a directive
Article 76 – paragraph 5 – subparagraph 2

Text proposed by the Commission

EBA shall submit those draft implementing **technical standards** to the Commission within twelve months from

Amendment

EBA shall submit those draft implementing **guidelines** to the Commission within twelve months from the date of entry into

the date of entry into force of this Directive.

force of this Directive.

Or. en

Amendment 1365
Śławomir Nitras

Proposal for a directive
Article 76 – paragraph 5 – subparagraph 3

Text proposed by the Commission

Amendment

Power is delegated to the Commission to adopt the implementing technical standards referred to in the first subparagraph of this paragraph in accordance with Article 15 of Regulation (EU) No 1093/2010.

deleted

Or. en

Amendment 1366
Jean-Paul Gauzès

Proposal for a directive
Article 80 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

The group level resolution authority, the resolution authorities of each Member State in which a subsidiary covered by consolidated supervision is established and EBA shall be members of the resolution college.

The group level resolution authority, the resolution authorities of each Member State in which a subsidiary ***that is in the view of the home authority material for resolution purposes*** covered by consolidated supervision is established and EBA shall be members of the resolution college.

Or. en

Amendment 1367
Elisa Ferreira

Proposal for a directive
Article 80 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The group level resolution authority, the resolution authorities of each Member State in which a subsidiary covered by consolidated supervision is established and EBA shall be members of the resolution college.

Amendment

The group level resolution authority, the resolution authorities of each Member State in which a subsidiary covered by consolidated supervision is established, ***the resolution authorities of the Member States where the group institutions have relevant branches*** and EBA shall be members of the resolution college.

Or. en

Amendment 1368
Slawomir Nitras

Proposal for a directive
Article 80 – paragraph 3 – subparagraph 1

Text proposed by the Commission

The public bodies participating in the colleges shall cooperate closely. The group level resolution authority shall coordinate all activities of resolution colleges and convene and chair all its meetings. The group level resolution authority shall keep all members of the college and EBA fully informed in advance of the organisation of such meetings, of the main issues to be discussed and of the activities to be considered. The group level resolution authority shall ***decide which authorities and ministries should participate in particular meetings or activities of the college, on the basis of the specific needs.*** ***The group level resolution authority shall*** also keep all the members of the college informed in a timely manner, of the actions and decisions taken in those meetings or

Amendment

The public bodies participating in the colleges shall cooperate closely. The group level resolution authority shall coordinate all activities of resolution colleges and convene and chair all its meetings. The group level resolution authority shall keep all members of the college and EBA fully informed in advance of the organisation of such meetings, of the main issues to be discussed and of the activities to be considered. The group level resolution authority shall also keep all the members of the college informed in a timely manner, of the actions and decisions taken in those meetings or the measures carried out.

the measures carried out.

Or. en

Amendment 1369
Slawomir Nitras

Proposal for a directive
Article 80 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

The decision of the group level resolution authority shall take account of the relevance of the issue to the discussed, the activity to be planned or coordinated and the decisions to be taken for those resolution authorities, in particular the potential impact on the stability of the financial system in the Member States concerned.

deleted

Or. en

Amendment 1370
Olle Schmidt

Proposal for a directive
Article 80 – paragraph 4

Text proposed by the Commission

Amendment

4. EBA shall contribute to promoting and monitoring the efficient, effective and consistent functioning of resolution colleges. To that end, EBA may participate in particular meetings or particular activities as it deems appropriate, but it shall not have voting rights.

4. EBA shall contribute to promoting and monitoring the efficient, effective and consistent functioning of resolution colleges ***in accordance with international standards***. To that end, EBA may participate in particular meetings or particular activities as it deems appropriate, but it shall not have voting rights.

Or. en

Amendment 1371
Ślawomir Nitras

Proposal for a directive
Article 80 – paragraph 6

Text proposed by the Commission

6. Notwithstanding paragraph 2, for the purposes of performing the tasks referred to in point (e) of the second subparagraph of paragraph 1 the resolution authority or authorities of each Member State in which a subsidiary is established shall participate at the meetings or activities of the resolution college.

Amendment

deleted

Or. en

Amendment 1372
Elisa Ferreira

Proposal for a directive
Article 80 – paragraph 6

Text proposed by the Commission

6. Notwithstanding paragraph 2, for the purposes of performing the tasks referred to in point (e) of the second subparagraph of paragraph 1 the resolution authority or authorities of each Member State in which a subsidiary is established shall participate at the meetings or activities of the resolution college.

Amendment

6. Notwithstanding paragraph 2, for the purposes of performing the tasks referred to in point (e) of the second subparagraph of paragraph 1 the resolution authority or authorities of each Member State in which a subsidiary is established ***and of each Member State where the group institutions have relevant branches*** shall participate at the meetings or activities of the resolution college.

Or. en

Amendment 1373
Jean-Paul Gauzès

Proposal for a directive
Article 80 – paragraph 8

Text proposed by the Commission

8. Group level resolution authorities may not establish resolution colleges if other groups or colleges perform the same functions and carry out the same tasks specified in this Article and comply with all the conditions and procedures established in this Section. In this case all references to resolution colleges in this Directive shall also be understood as reference to those other groups or colleges.

Amendment

8. Group level resolution authorities may not establish resolution colleges if other groups or colleges perform the same functions and carry out the same tasks specified in this Article and comply with all the conditions and procedures established in this Section. In this case all references to resolution colleges in this Directive shall also be understood as reference to those other groups or colleges. ***Where a Crisis Management Group for an institution has been established in line with the recommendations of the FSB, that Crisis Management Group shall be considered to be the Resolution College for that institution.***

Or. en

Amendment 1374
Olle Schmidt

Proposal for a directive
Article 80 – paragraph 8

Text proposed by the Commission

8. Group level resolution authorities may not establish resolution colleges if other groups or colleges perform the same functions and carry out the same tasks specified in this Article and comply with all the conditions and procedures established in this Section. In this case all references to resolution colleges in this Directive shall also be understood as reference to those other groups or colleges.

Amendment

8. Group level resolution authorities may not establish resolution colleges if other groups or colleges perform the same functions and carry out the same tasks specified in this Article and comply with all the conditions and procedures established in this Section. In this case all references to resolution colleges in this Directive shall also be understood as reference to those other groups or colleges. ***Where a Crisis Management Group for an institution has been established in line with the recommendations of the FSB, this Crisis Management Group shall be***

considered to be the Resolution College for that institution.

Or. en

Amendment 1375

Olle Schmidt

Proposal for a directive

Article 80 – paragraph 9 – subparagraph 1

Text proposed by the Commission

EBA shall develop draft regulatory standards in order to specify the operational functioning of the resolution colleges for the performance of the tasks provided for in paragraphs 1, 3, 5, 6 and 7.

Amendment

EBA shall develop draft regulatory standards in order to specify the operational functioning of the resolution colleges ***which are consistent with international standards*** for the performance of the tasks provided for in paragraphs 1, 3, 5, 6 and 7.

Or. en

Amendment 1376

Slawomir Nitras

Proposal for a directive

Article 80 – paragraph 9 – subparagraph 1

Text proposed by the Commission

EBA shall develop draft regulatory ***standards*** in order to specify the operational functioning of the resolution colleges for the performance of the tasks provided for in paragraphs 1, 3, 5, 6 and 7.

Amendment

EBA shall develop draft regulatory ***guidelines*** in order to specify the operational functioning of the resolution colleges for the performance of the tasks provided for in paragraphs 1, 3, 5, 6 and 7.

Or. en

Amendment 1377

Slawomir Nitras

Proposal for a directive
Article 80 – paragraph 9 – subparagraph 2

Text proposed by the Commission

EBA shall submit those draft regulatory **technical standards** to the Commission within twelve months from the date of entry into force of this Directive.

Amendment

EBA shall submit those draft regulatory **guidelines** to the Commission within twelve months from the date of entry into force of this Directive.

Or. en

Amendment 1378
Slawomir Nitras

Proposal for a directive
Article 80 – paragraph 9 – subparagraph 3

Text proposed by the Commission

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

Amendment

deleted

Or. en

Amendment 1379
Elisa Ferreira

Proposal for a directive
Article 81 – paragraph 1

Text proposed by the Commission

1. Where a third country institution or third country parent undertaking has two or more subsidiary institutions established in the Union, the resolution authorities of Member States where those domestic subsidiary institutions in the Union are established shall establish a European

Amendment

1. Where a third country institution or third country parent undertaking has two or more subsidiary institutions established ***or two or more relevant branches providing services*** in the Union, the resolution authorities of Member States where those domestic subsidiary institutions ***and***

resolution college if no arrangements as the ones foreseen in Article 89 have been established.

relevant branches in the Union are established shall establish a European resolution college if no arrangements as the ones foreseen in Article 89 have been established.

Or. en

Amendment 1380

Elisa Ferreira

Proposal for a directive

Article 81 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Where the domestic subsidiaries are held by a financial holding company established within the Union in accordance with the third subparagraph of Article 143(3) of Directive 2006/48/EC, the European resolution college shall be chaired by the resolution authority of the Member State where the consolidating supervisor is located for the purposes of consolidated supervision under that Directive.

Amendment

Where the domestic subsidiaries are held by **or the relevant branches are from** a financial holding company established within the Union in accordance with the third subparagraph of Article 143(3) of Directive 2006/48/EC, the European resolution college shall be chaired by the resolution authority of the Member State where the consolidating supervisor is located for the purposes of consolidated supervision under that Directive.

Or. en

Amendment 1381

Vicky Ford

Proposal for a directive

Article 82 – paragraph 2

Text proposed by the Commission

The resolution **authorities** shall **communicate on request** all relevant information. In particular, the group level resolution authority shall provide the resolution authorities in other Member States with all the relevant information in a

Amendment

The **group** resolution **authority** shall **coordinate the flow of** all relevant information **between resolution authorities**. In particular, the group level resolution authority shall provide the resolution authorities in other Member

timely manner in view of facilitating the exercise of the tasks referred to in points (b) to (h) of the second subparagraph of Article 80(1).

States with all the relevant information in a timely manner in view of facilitating the exercise of the tasks referred to in points (b) to (h) of the second subparagraph of Article 80(1).

Or. en

Amendment 1382

Mario Mauro, Alfredo Pallone

Proposal for a directive

Article 82 – paragraph 2

Text proposed by the Commission

The resolution *authorities* shall *communicate on request* all relevant information. In particular, the group level resolution authority shall provide the resolution authorities in other Member States with all the relevant information in a timely manner in view of facilitating the exercise of the tasks referred to in points (b) to (h) of the second subparagraph of Article 80(1).

Amendment

The *group* resolution *authority* shall *coordinate the flow of* all relevant information *between resolution authorities*. In particular, the group level resolution authority shall provide the resolution authorities in other Member States with all the relevant information in a timely manner in view of facilitating the exercise of the tasks referred to in points (b) to (h) of the second subparagraph of Article 80(1).

Or. en

Amendment 1383

Olle Schmidt

Proposal for a directive

Article 82 – paragraph 2

Text proposed by the Commission

The resolution *authorities* shall *communicate on request* all relevant information. In particular, the group level resolution authority shall provide the resolution authorities in other Member States with all the relevant information in a

Amendment

The *group* resolution *authority* shall *coordinate* all relevant information *between resolution authorities*. In particular, the group level resolution authority shall provide the resolution authorities in other Member States with all

timely manner in view of facilitating the exercise of the tasks referred to in points (b) to (h) of the second subparagraph of Article 80(1).

the relevant information in a timely manner in view of facilitating the exercise of the tasks referred to in points (b) to (h) of the second subparagraph of Article 80(1).

Or. en

Amendment 1384
Elisa Ferreira

Proposal for a directive
Article 82 – paragraph 2

Text proposed by the Commission

The resolution authorities shall communicate on request all relevant information. In particular, the group level resolution authority shall provide the resolution authorities in other Member States with all the relevant information in a timely manner in view of facilitating the exercise of the tasks referred to in points (b) to (h) of the second subparagraph of Article 80(1).

Amendment

The resolution authorities shall communicate on request ***of other resolution authority*** all relevant information. In particular, the group level resolution authority shall provide the resolution authorities in other Member States with all the relevant information in a timely manner in view of facilitating the exercise of the tasks referred to in points (b) to (h) of the second subparagraph of Article 80(1).

Or. en

Amendment 1385
Wolf Klinz

Proposal for a directive
Article 83 – paragraph 1 – introductory part

Text proposed by the Commission

1. Where a resolution authority decides, or is notified pursuant to Article 74(3), that an institution that is a subsidiary in a group is failing ***or likely to fail***, that authority shall notify the following information without delay to the group level resolution authority, if different, and to the resolution

Amendment

1. Where a resolution authority decides, or is notified pursuant to Article 74(3), that an institution that is a subsidiary in a group is failing ***according to Article 27 (1)***, that authority shall notify the following information without delay to the group level resolution authority, if different, and

authorities that are members of the resolution college for the group in question:

to the resolution authorities that are members of the resolution college for the group in question:

Or. en

Amendment 1386
Vicky Ford

Proposal for a directive
Article 83 – paragraph 1 – introductory part

Text proposed by the Commission

1. Where a resolution authority decides, or is notified pursuant to Article 74(3), that an institution that is a subsidiary in a group is failing or likely to fail, that authority shall notify the following information without delay to the group level resolution authority, if different, and to the resolution authorities that are members of the resolution college for the group in question:

Amendment

1. Where a resolution authority decides, or is notified pursuant to Article 74(3), that an institution that is a subsidiary in a group is failing or likely to fail, that authority shall notify the following information without delay to the group level resolution authority **and consolidating supervisor**, if different, and to the resolution authorities that are members of the resolution college for the group in question:

Or. en

Justification

Consolidating supervisors should also receive the information, and any competent authorities which are also members of the resolution college.

Amendment 1387
Slawomir Nitras

Proposal for a directive
Article 83 – paragraph 1 – introductory part

Text proposed by the Commission

1. Where a resolution authority decides, or is notified pursuant to Article 74(3), that an institution that is a subsidiary in a group is

Amendment

1. Where a **group resolution authority or a** resolution authority decides, or is notified pursuant to Article 74(3), that an institution

failing or likely to fail, that authority shall notify the following information without delay to the group level resolution authority, if different, and to the resolution authorities that are members of the resolution college for the group in question:

that is a subsidiary in a group is failing or likely to fail, that authority shall notify the following information without delay to the group level resolution authority, if different, and to the resolution authorities that are members of the resolution college for the group in question:

Or. en

Amendment 1388
Wolf Klinz

Proposal for a directive
Article 83 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) the decision that the institution is failing or likely to fail;

deleted

Or. en

Amendment 1389
Danuta Maria Hübner

Proposal for a directive
Article 83 – paragraph 2

Text proposed by the Commission

Amendment

2. On receiving a notification under paragraph 1, the group level resolution authority, ***in consultation with*** the other members of the relevant resolution college, shall assess the likely impact of the failure of the institution in question, or the resolution action or other measures notified in accordance with point (b) of paragraph 1, on the group or on affiliated institutions in other Member States.

2. On receiving a notification under paragraph 1, the group level resolution authority ***and*** the other members of the relevant resolution college, shall assess the likely impact of the failure of the institution in question, or the resolution action or other measures notified in accordance with point (b) of paragraph 1, on the group or on affiliated institutions in other Member States.

Or. en

Justification

Other members of the resolution college should be also involved in the process. The consultation mechanism is not sufficient.

Amendment 1390

Śławomir Nitras

Proposal for a directive

Article 83 – paragraph 2

Text proposed by the Commission

2. On receiving a notification under paragraph 1, the group level resolution authority, ***in consultation with*** the other members of the relevant resolution college, shall assess the likely impact of the failure of the institution in question, or the resolution action or other measures notified in accordance with point (b) of paragraph 1, on the group or on affiliated institutions in other Member States.

Amendment

2. On receiving a notification under paragraph 1, the group level resolution authority ***and*** the other members of the relevant resolution college, shall assess the likely impact of the failure of the institution in question, or the resolution action or other measures notified in accordance with point (b) of paragraph 1, on the group or on affiliated institutions in other Member States.

Or. en

Amendment 1391

Danuta Maria Hübner

Proposal for a directive

Article 83 – paragraph 3

Text proposed by the Commission

3. If the group level resolution authority, ***after consultation with*** the other resolution authorities in accordance with paragraph 2, assesses that the failure of the institution in question, or the resolution action or other measures notified in accordance with point (b) of paragraph 1, would not have a detrimental impact on the group or on affiliated institutions in other Member States, the resolution authority responsible

Amendment

3. If the group level resolution authority ***and*** the other resolution authorities in accordance with paragraph 2, assesses that the failure of the institution in question, or the resolution action or other measures notified in accordance with point (b) of paragraph 1, would not have a detrimental impact on the group or on affiliated institutions in other Member States, the resolution authority responsible for that

for that institution may take the resolution action or other measures that it notified in accordance in accordance with point (b) of paragraph 1.

institution may take the resolution action or other measures that it notified in accordance in accordance with point (b) of paragraph 1.

Or. en

Amendment 1392
Slawomir Nitras

Proposal for a directive
Article 83 – paragraph 3

Text proposed by the Commission

3. If the group level resolution authority, **after consultation with** the other resolution authorities in accordance with paragraph 2, assesses that the failure of the institution in question, or the resolution action or other measures notified in accordance with point (b) of paragraph 1, would not have a detrimental impact on the group or on affiliated institutions in other Member States, the resolution authority responsible for that institution may take the resolution action or other measures that it notified in accordance in accordance with point (b) of paragraph 1.

Amendment

3. If the group level resolution authority **and** the other resolution authorities in accordance with paragraph 2, assesses that the failure of the institution in question, or the resolution action or other measures notified in accordance with point (b) of paragraph 1, would not have a detrimental impact on the group or on affiliated institutions in other Member States, the resolution authority responsible for that institution may take the resolution action or other measures that it notified in accordance in accordance with point (b) of paragraph 1.

Or. en

Amendment 1393
Danuta Maria Hübner

Proposal for a directive
Article 83 – paragraph 4

Text proposed by the Commission

4. If the group level resolution authority, **after consultation with** the other resolution authorities in accordance with paragraph 2, assesses that the failure of the institution in

Amendment

4. If the group level resolution authority **and** the other resolution authorities in accordance with paragraph 2, assesses that the failure of the institution in question, or

question, or the resolution action or other measures notified in accordance with point (b) of paragraph 1, would have a detrimental impact on the group or on affiliated institutions in other Member States, the group level resolution authority shall, no later than 24 hours after receiving the notification under paragraph 1, propose a group resolution scheme and submit it to the resolution college.

the resolution action or other measures notified in accordance with point (b) of paragraph 1, would have a detrimental impact on the group or on affiliated institutions in other Member States, the group level resolution authority shall, no later than 24 hours after receiving the notification under paragraph 1, propose a group resolution scheme and submit it to the resolution college.

Or. en

Amendment 1394
Vicky Ford

Proposal for a directive
Article 83 – paragraph 4

Text proposed by the Commission

4. If the group level resolution authority, after consultation with the other resolution authorities in accordance with paragraph 2, assesses that the failure of the institution in question, or the resolution action or other measures notified in accordance with point (b) of paragraph 1, would have a detrimental impact on the group or on affiliated institutions in other Member States, the group level resolution authority shall, no later than 24 hours after receiving the notification under paragraph 1, propose a group resolution scheme and submit it to the resolution college.

Amendment

4. If the group level resolution authority, after consultation with the other resolution authorities in accordance with paragraph 2, assesses that the failure of the institution in question, or the resolution action or other measures notified in accordance with point (b) of paragraph 1, would have a detrimental impact on the group or on affiliated institutions in other Member States, the group level resolution authority shall, no later than 24 hours after receiving the notification under paragraph 1, propose a **non-binding** group resolution scheme and submit it to the resolution college.

Or. en

Justification

Member States must retain the competence to act swiftly and decisively, especially when domestic financial stability and taxpayer interests are affected.

Amendment 1395
Slawomir Nitras

Proposal for a directive
Article 83 – paragraph 5 – point a

Text proposed by the Commission

(a) outline the resolution actions that **should** be taken by the relevant resolution authorities in relation to the Union parent undertaking or particular group entities with the objective of preserving the value **of the group as a whole**, minimising the impact on financial stability in the Member States in which the group operates and minimising the use of extraordinary public financial support;

Amendment

(a) outline the resolution actions that **are recommended to** be taken by the relevant resolution authorities in relation to the Union parent undertaking or particular group entities with the objective of preserving the value, minimising the impact on financial stability in the Member States in which the group operates and minimising the use of extraordinary public financial support;

Or. en

Amendment 1396
Vicky Ford

Proposal for a directive
Article 83 – paragraph 5 – point a (new)

Text proposed by the Commission

Amendment

(a a) The group resolution scheme shall avoid having a disproportionate impact on any Member State that is a member of the resolution college.

In particular, it should have regard to the continuity of essential services, financial stability and the market share of any subsidiary in its Member State.

The group resolution scheme may only deviate from this principal where necessary to avoid significant adverse effects on financial stability in the Union.

Or. en

Justification

Member states which are hosts to subsidiaries of banking groups may be at risk of suffering a disproportionate effect upon the resolution of a banking group – particularly where their local subsidiary is of a size which means it is not significant to the group, but is systemic in the small Member State.

Amendment 1397
Slawomir Nitras

Proposal for a directive
Article 83 – paragraph 5 – point c

Text proposed by the Commission

Amendment

(c) establish a financing plan. The financing plan shall take into account the principles for sharing responsibility as established in accordance with point (e) of Article 11(3).

deleted

Or. en

Amendment 1398
Danuta Maria Hübner

Proposal for a directive
Article 83 – paragraph 5 – point c

Text proposed by the Commission

Amendment

(c) establish a financing plan. The financing plan shall take into account the principles for sharing responsibility as established in accordance with point (e) of Article 11(3).

(c) establish a financing plan. The financing plan shall take into account the **group resolution plan and the** principles for sharing responsibility as established in accordance with point (e) of Article 11(3).

Or. en

Justification

The resolution scheme should be consistent with the group resolution plan.

Amendment 1399

Vicky Ford

Proposal for a directive

Article 83 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. Any resolution authority that is a member of the resolution college may take action in addition to the group resolution scheme if it considers that this is necessary to protect financial stability or to protect the public interest.

It shall notify all members of the resolution college of any action it plans to take.

Or. en

Justification

Giving host resolution authorities the ability to take additional action provides them with a safeguard which is necessary to ensure that their financial stability is protected. It also adds an extra incentive for the group resolution authority to reflect their concerns and interests when drafting the resolution plan. This is an important protection, particularly for host Member States and whose subsidiaries may not be a large part of the group but are a significant part of their banking market.

Amendment 1400

Vicky Ford

Proposal for a directive

Article 83 – paragraph 6

Text proposed by the Commission

Amendment

6. If any member of the resolution college disagrees with the group resolution scheme proposed by the group level resolution authority and considers that it needs to take independent resolution actions or measures other than those proposed in the scheme in relation to an institution or group entity for reasons of ***deleted***

financial stability, it may refer within 24 hours the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010.

Or. en

Amendment 1401
Slawomir Nitras

Proposal for a directive
Article 83 – paragraph 6

Text proposed by the Commission

6. If any member of the resolution college disagrees with the group resolution scheme proposed by the group level resolution authority and considers that it needs to take independent resolution actions or measures other than those proposed in the scheme in relation to an *institution* or group *entity* for reasons of financial stability, it may refer within 24 hours the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010.

Amendment

6. Where a group resolution scheme has been proposed in accordance with paragraph 4, resolution authorities may take independent resolution actions or measures, other than those proposed in the scheme, in relation to an *institution* or group *in their jurisdiction, where they reasonably consider that such action or measures are necessary* for reasons of domestic financial stability *Where an authority makes such decisions, it must consider the impact of that action on financial stability in other Member States.*

Or. en

Justification

Responsibility for financial stability remains at local level and the cost of bank failure is borne by local depositors. Consolidating supervisor or group resolution authorities should not decide where there is no joint decision of local authorities. Such decisions should however consider the impact on financial stability in other Member States. Art 19 EBA Regulation refers to disagreements between competent i.e. supervisory authorities, not resolution authorities. EBA should carry out only non-binding mediation in accordance with Art 31(c) of that regulation.

Amendment 1402
Danuta Maria Hübner, Vicky Ford

Proposal for a directive
Article 83 – paragraph 6

Text proposed by the Commission

6. If any member of the resolution college disagrees with the group resolution scheme proposed by the group level resolution authority **and considers that it needs to** take independent resolution actions or measures other than those proposed in the scheme in relation to an institution or group entity for reasons of financial stability, **it may refer within 24 hours the matter to EBA** in accordance with Article 19 of Regulation (EU) No 1093/2010.

Amendment

6. If any member of the resolution college disagrees with the group resolution scheme proposed by the group level resolution authority **may** take independent resolution actions or measures other than those proposed in the scheme in relation to an institution or group entity **established in its jurisdiction** for reasons of financial, **economic and social** stability.

It should notify the resolution college and all members of any planned action beyond what is outlined in the group resolution scheme, in accordance with Article 83(11).

Or. en

Justification

The resolution authorities of the Member State of a subsidiary should be able to object to decisions of the group resolution authority, not only on appropriateness of resolution actions but also on ground of protecting financial stability. Therefore, they should be able to object to a scheme which might have adverse effects on entities within their jurisdiction. Binding mediation of EBA on resolution plans, and in particular schemes, would be inconsistent with Art 38 of the EBA Regulation which states that EBA decisions shall not impinge on the fiscal responsibilities of Member States.

Amendment 1403
Slawomir Nitras

Proposal for a directive
Article 83 – paragraph 7

Text proposed by the Commission

7. By way of derogation from Article 19 (2) of Regulation (EU) No 1093/2010, EBA shall take a decision within 24

Amendment

deleted

hours. The subsequent action or measure of the resolution authority shall be in conformity with the decision of EBA.

Or. en

Amendment 1404
Vicky Ford

Proposal for a directive
Article 83 – paragraph 7

Text proposed by the Commission

7. By way of derogation from Article 19 (2) of Regulation (EU) No 1093/2010, EBA shall take a decision within 24 hours. The subsequent action or measure of the resolution authority shall be in conformity with the decision of EBA.

Amendment

7. By way of derogation from Article 19 (2) of Regulation (EU) No 1093/2010, **and subject to the safeguards in Article 38 of that Regulation**, EBA shall take a decision within 24 hours. The subsequent action or measure of the resolution authority shall be in conformity with the decision of EBA.

Or. en

Justification

EBA should be able to perform binding mediation with respect to group resolution decisions but only subject to the safeguards in the EBA regulations, in particular the decision must not impinge on the fiscal responsibilities of Member States. It is therefore essential that this RRD provision should expressly refer to the safeguards in Article 38 so that it is clear that they continue to apply in this context.

Amendment 1405
Danuta Maria Hübner

Proposal for a directive
Article 83 – paragraph 7

Text proposed by the Commission

7. By way of derogation from Article 19 (2) of Regulation (EU) No 1093/2010, EBA shall take a decision within 24

Amendment

7. The resolution authority shall notify the resolution college of any independent action or measures taken in accordance

hours. The subsequent action or measure of the resolution authority shall be in conformity with the decision of EBA.

with paragraph 6, give reasons for its decision and where feasible within the time constraints, discuss those reasons with other members of the college before taking the independent action or measure.

Or. en

Justification

Due to changes in Art. 83 paragraph 6 the wording of paragraph 7 has also been adjusted.

Amendment 1406
Ślawomir Nitras

Proposal for a directive
Article 83 – paragraph 8

Text proposed by the Commission

Amendment

8. Where a group level resolution authority decides, or is notified pursuant to Article 74(3), that a Union parent undertaking for which it is responsible is failing or likely to fail, it shall notify the information referred to in points (a) and (b) of paragraph 1 of this article to resolution authorities that are members of the resolution college of the group in question. The resolution actions for the purposes of point (b) of paragraph 1 of this Article may include a group resolution scheme drawn up in accordance with paragraph 5 of this Article.

deleted

Or. en

Amendment 1407
Danuta Maria Hübner

Proposal for a directive
Article 83 – paragraph 8

Text proposed by the Commission

8. Where a group level resolution authority decides, or is notified pursuant to Article 74(3), that a Union parent undertaking for which it is responsible is failing or likely to fail, it shall notify the information referred to in points (a) and (b) of paragraph 1 of this article to resolution authorities that are members of the resolution college of the group in question. The resolution actions for the purposes of point (b) of paragraph 1 of this Article may include a group resolution scheme drawn up in accordance with paragraph 5 of this Article.

Amendment

8. Where a group level resolution authority decides, or is notified pursuant to Article 74(3), that a Union parent undertaking for which it is responsible is failing or likely to fail, it shall notify the information referred to in points (a) and (b) of paragraph 1 of this article to resolution authorities that are members of the resolution college of the group in question. The resolution actions for the purposes of point (b) of paragraph 1 of this Article may include a group resolution scheme drawn up **and agreed** in accordance with paragraph 5 **and 6** of this Article.

Or. en

Justification

As a consequence of the modifications proposed above.

Amendment 1408

Wolf Klinz

Proposal for a directive

Article 85 – paragraph 2 – introductory part

Text proposed by the Commission

2. EBA **shall** recognise, except as provided for in Article 86, third country resolution proceedings relating to a third country institution that:

Amendment

2. EBA **may** recognise, except as provided for in Article 86, third country resolution proceedings relating to a third country institution that:

Or. en

Amendment 1409

Wolf Klinz

Proposal for a directive
Article 86 – paragraph 1 – introductory part

Text proposed by the Commission

1. EBA shall refuse, after consulting the national resolution authorities concerned, to recognise pursuant to Article 85(2) third country resolution proceedings if it considers :

Amendment

1. EBA shall refuse, after consulting the national resolution authorities concerned, to recognise pursuant to Article 85(2) third country resolution proceedings if it considers ***that at least one of the following conditions is fulfilled:***

Or. en

Amendment 1410
Sharon Bowles

Proposal for a directive
Article 86 – paragraph 1 – point b

Text proposed by the Commission

(b) that independent resolution action under Article 87 in relation to a domestic branch is necessary to achieve one or more of the resolution objectives;

Amendment

(b) that independent resolution action under Article 87 in relation to a domestic branch is necessary to achieve one or more of the resolution objectives. ***EBA may refuse, after consulting the national resolution authorities concerned, to recognise pursuant to Article 85(2) third country resolution proceedings if it considers that creditors, including in particular depositors located or payable in a Member State, would not receive equal treatment with third country creditors under the third country resolution proceedings;***

Or. en

Amendment 1411
Olle Schmidt

Proposal for a directive
Article 86 – paragraph 1 – point c

Text proposed by the Commission

(c) that creditors, including in particular depositors located or payable in a Member State, would not receive **equal** treatment with third country creditors under the third country resolution proceedings.

Amendment

(c) that creditors, including in particular depositors located or payable in a Member State, would not receive **equitable** treatment with third country creditors **with similar legal rights** under the third **foreign home** country resolution proceedings.

Or. en

Amendment 1412

Elisa Ferreira

**Proposal for a directive
Article 86 – paragraph 2**

Text proposed by the Commission

2. The Commission shall, by means of delegated acts adopted in accordance to Article 103, **shall** specify the circumstances referred to in points (a) and (b) of paragraph 1 of this Article.

Amendment

2. The Commission shall, by means of delegated acts adopted in accordance to Article 103, specify the circumstances referred to in points (a) and (b) of paragraph 1 of this Article.

Or. en

Amendment 1413

Elisa Ferreira

**Proposal for a directive
Article 88 – paragraph 3 – point a**

Text proposed by the Commission

(a) the development of resolution plans in accordance with **Articles** 9 and 12 and similar requirements under the law of the relevant third countries;

Amendment

(a) the development of resolution plans in accordance with **Articles** 9, **11** and 12 and similar requirements under the law of the relevant third countries;

Or. en

Amendment 1414
Ślawomir Nitras

Proposal for a directive
Article 88 – paragraph 3 – point b

Text proposed by the Commission

(b) the assessment of the resolvability of such institutions *and groups*, in accordance with Article 13 and similar requirements under the law of the relevant third countries;

Amendment

(b) the assessment of the resolvability of such institutions in accordance with Article 13 and similar requirements under the law of the relevant third countries;

Or. en

Amendment 1415
Ślawomir Nitras

Proposal for a directive
Article 88 – paragraph 5 – point d

Text proposed by the Commission

(d) early warning to or consultation of parties to the cooperation arrangement before taking any significant action under this Directive or relevant third country law affecting the institution *or group* to which the arrangement relates;

Amendment

(d) early warning to or consultation of parties to the cooperation arrangement before taking any significant action under this Directive or relevant third country law affecting the institution to which the arrangement relates;

Or. en

Amendment 1416
Sharon Bowles

Proposal for a directive
Article 89 – paragraph 1 – point a

Text proposed by the Commission

(a) those third country authorities are subject to requirements and standards of professional secrecy at least *equivalent* to

Amendment

(a) those third country authorities are subject to requirements and standards of professional secrecy at least *similar* to

those imposed by Article 76;

those imposed by Article 76;

Or. en

Amendment 1417

Vicky Ford

Proposal for a directive

Article 89 – paragraph 2 – introductory part

Text proposed by the Commission

2. Where confidential information originates in another Member State, resolution authorities *or* competent **authorities** may not disclose that information to relevant third country authorities unless the following conditions are met:

Amendment

2. Where confidential information originates in another Member State, resolution authorities, **competent authorities and** competent **ministries** may not disclose that information to relevant third country authorities unless the following conditions are met:

Or. en

Amendment 1418

Wolf Klinz

Proposal for a directive

Article 90

Text proposed by the Commission

Article 90

European System of Financing Arrangements

The European System of Financing Arrangements shall consist of:

(a) national financing arrangements established in accordance with Article 91;

(b) the borrowing between national financing arrangements as specified in Article 97,

(c) the mutualisation of national financing arrangements in the case of a

Amendment

deleted

group resolution as referred to in Article 98.

Or. en

Amendment 1419
Werner Langen

Proposal for a directive
Article 90 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the borrowing between national financing arrangements as specified in Article 97,

deleted

Or. de

Amendment 1420
Peter Simon

Proposal for a directive
Article 90 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the ***borrowing*** between national financing arrangements as specified in Article 97,

(b) the ***voluntary lending*** between national financing arrangements as specified in Article 97,

Or. de

Amendment 1421
Wolf Klinz

Proposal for a directive
Article 91

Text proposed by the Commission

Amendment

Article 91

deleted

Amendment 1422
Vicky Ford

Proposal for a directive
Article 91 – paragraph 1

Text proposed by the Commission

1. Member States shall establish financing **arrangements** for the purpose of ensuring the effective application by the resolution authority of the resolution tools and powers. The financing arrangements shall be used only in accordance with the resolution objectives and the principles set out in Articles 26 and 29.

Amendment

1. Member States shall establish **a** financing **arrangement or arrangements** for the purpose of ensuring the effective application by the resolution authority of the resolution tools and powers. The financing arrangements shall be used only in accordance with the resolution objectives and the principles set out in Articles 26 and 29.

Amendment 1423
Leonardo Domenici

Proposal for a directive
Article 91 – paragraph 1

Text proposed by the Commission

1. Member States shall establish financing arrangements for the purpose of ensuring the effective application by the resolution authority of the resolution tools and powers. The financing arrangements shall be used only in accordance with the resolution objectives and the principles set out in Articles 26 and 29.

Amendment

1. Member States shall establish financing arrangements for the purpose of ensuring the effective application by the resolution authority of the resolution tools and powers. ***Institutional Protection Schemes shall be considered as financing arrangements, provided that they meet the requirements laid down in art. 80(8) of Directive 48/2006/CE.*** The financing arrangements shall be used only in accordance with the resolution objectives and the principles set out in Articles 26 and 29.

Amendment 1424
Herbert Dorfmann

Proposal for a directive
Article 91 – paragraph 1

Text proposed by the Commission

1. Member States shall establish financing arrangements for the purpose of ensuring the effective application by the resolution authority of the resolution tools and powers. The financing arrangements shall be used only in accordance with the resolution objectives and the principles set out in Articles 26 and 29.

Amendment

1. Member States shall establish financing arrangements for the purpose of ensuring the effective application by the resolution authority of the resolution tools and powers. ***Institutional Protection Schemes shall considered as financing arrangements, provided that they meet the requirements laid down in art. 80(8) of Directive 48/2006/CE.*** The financing arrangements shall be used only in accordance with the resolution objectives and the principles set out in Articles 26 and 29.

Amendment 1425
Diogo Feio

Proposal for a directive
Article 91 – paragraph 1

Text proposed by the Commission

1. Member States shall establish financing arrangements for the purpose of ensuring the effective application by the resolution authority of the resolution tools and powers. The financing arrangements shall be used only in accordance with the resolution objectives and the principles set out in Articles 26 and 29.

Amendment

1. Member States shall establish financing arrangements for the purpose of ensuring the effective application by the resolution authority of the resolution tools and powers. The financing arrangements shall be used only in accordance with the resolution objectives and the principles set out in Articles 26 and 29 ***and be completely separate and independent from deposit guarantee schemes.***

Amendment 1426
Mario Mauro, Alfredo Pallone

Proposal for a directive
Article 91 – paragraph 1

Text proposed by the Commission

1. Member States shall establish financing arrangements for the purpose of ensuring the effective application by the resolution authority of the resolution tools and powers. The financing arrangements shall be used only in accordance with the resolution objectives and the principles set out in Articles 26 and 29.

Amendment

1. Member States shall establish financing arrangements for the purpose of ***enabling each national Deposit Guarantee Scheme under Directive 94/19/EC, for all the institutions authorised in the territory of the Member State, the capability to*** ensuring the effective application by the resolution authority of the resolution tools and powers. The financing arrangements shall be used only in accordance with the resolution objectives and the principles set out in Articles 26 and 29.

Amendment 1427
Mario Mauro, Alfredo Pallone

Proposal for a directive
Article 91 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Institutional Protection Schemes shall be considered as financing arrangements, provided that they meet the requirements laid down in art. 80(8) of Directive 48/2006/CE.

Amendment 1428
Vicky Ford

Proposal for a directive
Article 91 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that the financing arrangements have adequate financial resources.

Amendment

2. Member States shall ensure that the financing arrangements have **access to** adequate financial resources.

Or. en

Amendment 1429
Vicky Ford

Proposal for a directive
Article 91 – paragraph 3 – introductory part

Text proposed by the Commission

3. For the purpose provided for in paragraph 2, financing arrangements **shall** in particular have:

Amendment

3. For the purpose provided for in paragraph 2, financing arrangements **may** in particular have:

Or. en

Amendment 1430
Markus Ferber

Proposal for a directive
Article 91 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. Member States may exempt institutions from the payment of a contribution to the financing arrangement if they are publicly owned and have a guarantee from a Member State or a subsidiary national level of a Member State.

Justification

Payment of a contribution to the financing arrangement is not justified in the case of certain types of institution such as public development banks, since the state guarantees in place ensure that they cannot fail and will therefore never have recourse to the financing arrangement. A requirement for these institutions to pay a contribution would amount to a subsidising of private banks by public banks.

Amendment 1431
Werner Langen

Proposal for a directive
Article 91 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. Member States may exempt public institutions from contributing to the resolution financing arrangement if they are owned by the state or other administrative authorities and have concluded explicit guarantee agreements or similar liability instruments which are made available by the state or other administrative authorities and which fulfil a public task laid down by law.

Or. de

Amendment 1432
Vicky Ford

Proposal for a directive
Article 91 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. For the purpose provided for in paragraph 2, financing arrangements shall in particular have:
(a) the power to raise ex post

extraordinary contributions as specified in Article 95, and

(b) the power to contract borrowings and other forms of support as specified in Article 96.

Or. en

Amendment 1433
Jürgen Klute

Proposal for a directive
Article 91 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. Member States may exclude publicly owned entities that have explicit guarantee arrangements or comparable liability instruments provided by regional or central governments and that fulfil specific tasks of public interest, from the contribution to the resolution fund.

Or. en

Amendment 1434
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive
Article 91 – paragraph 3 – point a

Text proposed by the Commission

Amendment

(a) the power to raise ex ante contributions as specified in Article 94 with a view to reaching the target level specified in Article 93;

(a) the power to raise *the level of* ex ante contributions as specified in Article 94 with a view to reaching the target level specified in Article 93;

Or. en

Amendment 1435
Burkhard Balz, Werner Langen

Proposal for a directive
Article 91 – paragraph 3 – point b

Text proposed by the Commission

Amendment

*(b) the power to raise ex post
extraordinary contributions as specified
in Article 95, and*

deleted

Or. en

Amendment 1436
Vicky Ford

Proposal for a directive
Article 91 – paragraph 3 – point b

Text proposed by the Commission

Amendment

*(b) the power to raise ex post
extraordinary contributions as specified
in Article 95, and*

deleted

Or. en

Amendment 1437
Vicky Ford

Proposal for a directive
Article 91 – paragraph 3 – point c

Text proposed by the Commission

Amendment

*(c) the power to contract borrowings and
other forms of support as specified in
Article 96.*

deleted

Or. en

Amendment 1438
Wolf Klinz

Proposal for a directive
Article 92

Text proposed by the Commission

Amendment

Article 92

deleted

Or. en

Amendment 1439
Olle Schmidt

Proposal for a directive
Article 92 – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

The financing arrangements established in accordance with Article 91 may be used by the resolution authority when applying the resolution tools, for the following purposes:

The financing arrangements established in accordance with Article 91 may be used by the resolution authority ***only to the extent necessary to ensure the effective application of*** when applying the resolution tools, for the following purposes:

Or. en

Amendment 1440
Ildikó Gáll-Pelcz

Proposal for a directive
Article 92 – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

The financing arrangements established in accordance with Article 91 may be used by the resolution authority when applying the resolution tools, ***for*** the following purposes:

The financing arrangements established in accordance with Article 91 may be used by the resolution authority ***for the sake of the resolution objectives*** when applying the resolution tools, ***in particular for but not limited to*** the following purposes:

Amendment 1441
Gianni Pittella

Proposal for a directive
Article 92 – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 1442
Gianni Pittella

Proposal for a directive
Article 92 – paragraph 1 – subparagraph 1 – point d

Text proposed by the Commission

Amendment

(d) to make contributions to a bridge institution;

(d) to make contributions ***and provide capital*** to a bridge institution ***and an asset management vehicle***;

Or. en

Amendment 1443
Elisa Ferreira

Proposal for a directive
Article 92 – paragraph 1 – subparagraph 1 – point e

Text proposed by the Commission

Amendment

(e) to take any combination of the actions referred to in ***points*** (a) to (e).

(e) to take any combination of the actions referred to in ***points*** (a) to (d).

Amendment 1444
Jean-Paul Gauzès

Proposal for a directive
Article 92 – paragraph 1 – subparagraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(e a) (f) to recapitalize the institution.

Or. en

Amendment 1445
Gianni Pittella

Proposal for a directive
Article 92 – paragraph 1 – subparagraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(e a) pay any compensation due to shareholders and creditors according to Article 67 of this Directive.

Or. en

Amendment 1446
Olle Schmidt

Proposal for a directive
Article 92 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

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

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

Member States may allow for such functions to be undertaken by the DGS

established in accordance with Directive 94/19/EC. In such cases, Member States shall provide for separate accounting lines and levy bases to be maintained by the DGS.

Or. en

Justification

Member States should be given greater flexibility to use Deposit Guarantee funds for the administration of resolution funds, provided that a separate accounting is undertaken.

Amendment 1447

Marisa Matias, Jürgen Klute

Proposal for a directive

Article 92 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that any losses, costs or other expenses incurred in connection with the use of the resolution tools shall be first borne by the shareholders and the creditors of the institution under resolution. Only if the resources from shareholders and creditors are exhausted, the losses, costs or other expenses incurred in connection with the use of the resolution tools shall be borne by the financing arrangements.

Amendment

2. Member States shall ensure that any losses, costs or other expenses incurred in connection with the use of the resolution tools shall be first borne by the shareholders and, ***if resources from the shareholders are exhausted***, the creditors of the institution under resolution. Only if the resources from shareholders and creditors are exhausted, the losses, costs or other expenses incurred in connection with the use of the resolution tools shall be borne by the financing arrangements.

Or. en

Amendment 1448

Wolf Klinz

Proposal for a directive

Article 93

Text proposed by the Commission

Amendment

Article 93

deleted

Or. en

Amendment 1449

Vicky Ford

Proposal for a directive

Article 93

Text proposed by the Commission

Amendment

Article 93

deleted

Or. en

Amendment 1450

Burkhard Balz, Werner Langen

Proposal for a directive

Article 93 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that, in a period no longer than 10 years after the entry into force of this directive, the available financial means of their financing arrangements reach at least 1% of the amount of deposits of all the credit institutions authorised in their territory which are guaranteed under Directive 94/19/EC.

1. Member States shall ensure that, in a period no longer than 10 years after the entry into force of this directive, the available financial means of their financing arrangements reach at least 1% of the amount of **covered** deposits of all the credit institutions authorised in their territory which are guaranteed under Directive 94/19/EC.

Or. en

Amendment 1451

Elisa Ferreira

Proposal for a directive
Article 93 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that, in a period no longer than 10 years after the entry into force of this directive, the available financial means of their financing arrangements reach at least **1%** of the **amount of deposits** of all the **credit institutions** authorised in **their** territory **which are guaranteed under Directive 94/19/EC**.

Amendment

1. Member States shall ensure that, in a period no longer than 10 years after the entry into force of this directive, the available financial means of their financing arrangements reach at least **2%** of the **total liabilities, excluding own funds**, of all the institutions authorised in **the** territory **of the Member State**.

Or. en

Amendment 1452
Diogo Feio

Proposal for a directive
Article 93 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that, in a period no longer than 10 years after the entry into force of this directive, the available financial means of their financing arrangements reach at least **1%** of the amount of deposits of all the credit institutions authorised in their territory **which are guaranteed under Directive 94/19/EC**.

Amendment

1. Member States shall ensure that, in a period no longer than 10 years after the entry into force of this directive, the available financial means of their financing arrangements reach at least **[...]**% of the amount of deposits **liabilities excluding own funds and covered deposits**, of all the credit institutions authorised in their territory.

Or. en

Justification

The use of the amount of covered deposits to determine the minimum financial means for resolution funds will penalize retail banking when compared to investment banking which normally does not provide material deposit services. It would be preferable to use liabilities excluding own funds and covered deposits. There should be an impact assessment to determine the percentage since it is impossible at this stage to know the current levels of liabilities in each MS

Amendment 1453
Olle Schmidt

Proposal for a directive
Article 93 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that, in *a period no longer than 10 years after the entry into force of this directive*, the available financial means of their financing arrangements reach at least **1%** of the amount of deposits of all the credit institutions authorised in their territory *which are guaranteed under Directive 94/19/EC*.

Amendment

1. Member States shall ensure that, in *the context of the plans developed in accordance with Articles 9, 10 and 11*, the available financial means of their financing arrangements reach *a target level by way of ex ante and ex post contributions as necessary, of* at least **5,5 %** of the amount of *covered* deposits of all the credit institutions authorised in their territory, *or 2,5 % of GDP, whichever is more appropriate taking into account the nature of the financial sector and wider economy within an appropriate initial time period sufficient to ensure the effective application of resolution tools and thereafter on an ongoing basis. by way of ex ante or ex post contributions as necessary to reach the target level within an appropriate time period.*

Or. en

Amendment 1454
Marisa Matias, Jürgen Klute

Proposal for a directive
Article 93 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that, in a period no longer than **10** years after the entry into force of this directive, the available financial means of their financing arrangements reach at least 1% of the amount of *deposits* of all the credit

Amendment

1. Member States shall ensure that, in a period no longer than **5** years after the entry into force of this directive, the available financial means of their financing arrangements reach at least 1% of the amount of *total liabilities* of all the credit

institutions authorised in their *territory which are* guaranteed under Directive 94/19/EC.

institutions authorised in their *territory, excluding own funds and deposits* guaranteed under directive 94/19/EC.

Or. en

Amendment 1455

Mario Mauro, Alfredo Pallone

Proposal for a directive

Article 93 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that, in a period no longer than **10** years after the entry into force of this directive, the available financial means of their financing arrangements reach at least 1% of the amount of deposits of all the credit institutions authorised in their territory which are guaranteed under Directive 94/19/EC.

Amendment

1. Member States shall ensure that, in a period no longer than **15** years after the entry into force of this directive, the available financial means of their financing arrangements reach at least 1% of the amount of **covered** deposits of all the credit institutions authorised in their territory which are guaranteed under Directive 94/19/EC.

Or. en

Amendment 1456

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a directive

Article 93 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that, in a period no longer than **10** years after the entry into force of this directive, the available financial means of their financing arrangements reach at least **1%** of the amount of deposits of all the credit institutions authorised in their territory which are guaranteed under Directive 94/19/EC.

Amendment

1. Member States shall ensure that, in a period no longer than **7** years after the entry into force of this directive, the available financial means of their financing arrangements reach at least **1.5%** of the amount of deposits of all the credit institutions authorised in their territory which are guaranteed under Directive 94/19/EC.

Amendment 1457
Peter Simon, Udo Bullmann

Proposal for a directive
Article 93 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that, in a period no longer than 10 years after the entry into force of this directive, the available financial means of their financing arrangements reach at least **1%** of the amount of deposits of all the credit institutions authorised in their territory which are guaranteed under Directive 94/19/EC.

Amendment

1. Member States shall ensure that, in a period no longer than 10 years after the entry into force of this directive, the available financial means of their financing arrangements reach at least **1.5%** of the amount of deposits of all the credit institutions authorised in their territory which are guaranteed under Directive 94/19/EC.

Or. de

Justification

According to a Commission impact assessment, the establishment of a 1% fund and a comprehensive 'bail-in' instrument at a time of extreme crisis nonetheless requires recourse to Member States' budgetary resources, and this might involve up to 3% of a Member State's GDP. Establishing a 1.5% resolution fund in addition to a 1.5% deposit guarantee fund would give a total of 3%, which is around half the cost of recapitalisation required in the present crisis.

Amendment 1458
Olle Schmidt

Proposal for a directive
Article 93 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Member States may extend the initial period of time for a maximum of four years in case the financing arrangements make cumulated disbursements superior

Amendment

deleted

to 0.5% of covered deposits.

Or. en

Justification

Ex ante contributions should be assessed in the context of resolution plans for the financial sector in any given Member State.

Amendment 1459

Elisa Ferreira

Proposal for a directive

Article 93 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Member States may extend the initial period of time for a maximum of four years in case the financing arrangements make cumulated disbursements superior to 0.5% of *covered deposits*.

Amendment

Member States may extend the initial period of time for a maximum of four years in case the financing arrangements make cumulated disbursements superior to 0.5% of *the total liabilities, excluding own funds, of all the institutions authorised in the territory of the Member State.*

Or. en

Amendment 1460

Diogo Feio

Proposal for a directive

Article 93 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Member States may extend the initial period of time for a maximum of four years in case the financing arrangements make cumulated disbursements superior to **0.5%** of covered deposits.

Amendment

Member States may extend the initial period of time for a maximum of four years in case the financing arrangements make cumulated disbursements superior to *[...]*% of covered deposits.

Or. en

Justification

Read justification for proposed AM to Article 93/1.

Amendment 1461

Jürgen Klute

Proposal for a directive

Article 93 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Member States may extend the initial period of time for a maximum of four years in case the financing arrangements make cumulated disbursements superior to 0.5% of covered deposits.

Amendment

Member States may extend the initial period of time for a maximum of four years in case the financing arrangements make cumulated disbursements superior to 0.5% of covered deposits. ***Member States may ad hoc levy additional contributions if they deem necessary for the stability of the financial system.***

Or. en

Amendment 1462

Olle Schmidt

Proposal for a directive

Article 93 – paragraph 3

Text proposed by the Commission

3. If, after the initial period of time referred to in paragraph 1, the available financial means diminish below the target level specified in paragraph 2, contributions raised in accordance with Article 94 shall resume until the target level is reached. Where the available financial means amount to less than half of the target level, the annual contributions shall not be less than 0.25% of covered deposits.

Amendment

deleted

Or. en

Justification

Ex ante contributions should be assessed in the context of resolution plans for the financial sector in any given Member State.

Amendment 1463

Elisa Ferreira

Proposal for a directive

Article 93 – paragraph 3

Text proposed by the Commission

3. If, after the initial period of time referred to in paragraph 1, the available financial means diminish below the target level specified in paragraph 2, contributions raised in accordance with Article 94 shall resume until the target level is reached. Where the available financial means amount to less than half of the target level, the annual contributions shall not be less than 0.25% of *covered deposits*.

Amendment

3. If, after the initial period of time referred to in paragraph 1, the available financial means diminish below the target level specified in paragraph 2, contributions raised in accordance with Article 94 shall resume until the target level is reached. Where the available financial means amount to less than half of the target level, the annual contributions shall not be less than 0.25% of *the total liabilities, excluding own funds, of all the institutions authorised in the territory of the Member State*.

Or. en

Amendment 1464

Diogo Feio

Proposal for a directive

Article 93 – paragraph 3

Text proposed by the Commission

3. If, after the initial period of time referred to in paragraph 1, the available financial means diminish below the target level specified in paragraph 2, contributions raised in accordance with Article 94 shall resume until the target level is reached. Where the available financial means

Amendment

3. If, after the initial period of time referred to in paragraph 1, the available financial means diminish below the target level specified in paragraph 2, contributions raised in accordance with Article 94 shall resume until the target level is reached. Where the available financial means

amount to less than half of the target level, the annual contributions shall not be less than **0.25%** of covered deposits.

amount to less than half of the target level, the annual contributions shall not be less than **[...]% of liabilities excluding own funds and** covered deposits.

Or. en

Justification

Read justification for proposed AM to Article 93/1.

Amendment 1465
Mario Mauro, Alfredo Pallone

Proposal for a directive
Article 93 – paragraph 3

Text proposed by the Commission

3. If, after the initial period of time referred to in paragraph 1, the available financial means diminish below the target level specified in paragraph 2, contributions raised in accordance with Article 94 shall resume until the target level is reached. Where the available financial means amount to less than half of the target level, the annual contributions shall not be less than **0.25%** of covered deposits.

Amendment

3. If, after the initial period of time referred to in paragraph 1, the available financial means diminish below the target level specified in paragraph 2, contributions raised in accordance with Article 94 shall resume until the target level is reached. Where the available financial means amount to less than half of the target level, the annual contributions shall not be less than **0.1%** of covered deposits.

Or. en

Amendment 1466
Marisa Matias, Jürgen Klute

Proposal for a directive
Article 93 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. When the available financial means are equal or above 1% and below 2%, the annual contributions shall not be less

than 0,1% of total liabilities, excluding own funds and deposits guaranteed under Directive 94/19/EC.

Or. en

Amendment 1467
Wolf Klinz

Proposal for a directive
Article 94

Text proposed by the Commission

Amendment

Article 94

deleted

Or. en

Amendment 1468
Vicky Ford

Proposal for a directive
Article 94 – paragraph 1

Text proposed by the Commission

Amendment

1. *In order to reach the target level specified in Article 93*, Member States shall ensure that contributions are raised at least annually from the institutions authorised in their territory.

1. *Where appropriate*, Member States shall ensure that contributions are raised at least annually from the institutions authorised in their territory.

Or. en

Amendment 1469
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive
Article 94 – paragraph 1

Text proposed by the Commission

1. In order to reach the target level specified in Article 93, Member States shall ensure that contributions are raised at least annually from the institutions authorised in their territory.

Amendment

1. In order to reach the target level specified in Article 93, Member States shall ensure that *ex-ante* contributions are raised at least annually from the institutions authorised in their territory.

Or. en

Amendment 1470

Elisa Ferreira

Proposal for a directive

Article 94 – paragraph 2 – point a

Text proposed by the Commission

(a) if a Member State has availed itself of the option provided for in Article 99(5) of this Directive to use the funds of Deposit Guarantee Scheme for the purposes of Article 92 of this Directive, the contribution from each institution shall be pro-rata to the amount of its liabilities excluding own funds and deposits guaranteed under Directive 94/19/EC with respect to the total liabilities, excluding own funds and deposits guaranteed under Directive 94/19/EC, of all the institutions authorised in the territory of the Member State.

Amendment

deleted

Or. en

Amendment 1471

Andreas Schwab

Proposal for a directive

Article 94 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) if a Member State has availed itself of the option provided for in Article 99(5) of this Directive to use the funds of Deposit Guarantee Scheme for the purposes of Article 92 of this Directive, the contribution from each institution shall be pro-rata to the amount of its liabilities excluding own funds and deposits guaranteed under Directive 94/19/EC with respect to the total liabilities, excluding own funds and deposits guaranteed under Directive 94/19/EC, of all the institutions authorised in the territory of the Member State.

deleted

Or. de

Amendment 1472

Burkhard Balz, Werner Langen

Proposal for a directive

Article 94 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) if a Member State has availed itself of the option provided for in Article 99(5) of this Directive to use the funds of Deposit Guarantee Scheme for the purposes of Article 92 of this Directive, the contribution from each institution shall be pro-rata to the amount of its liabilities excluding own funds and deposits guaranteed under Directive 94/19/EC with respect to the total liabilities, excluding own funds and deposits guaranteed under Directive 94/19/EC, of all the institutions authorised in the territory of the Member State.

(a) the contribution from each institution shall be pro-rata to the amount of its liabilities excluding own funds and deposits guaranteed under Directive 94/19/EC with respect to the total liabilities, excluding own funds and deposits guaranteed under Directive 94/19/EC, of all the institutions authorised in the territory of the Member State.

Or. en

Amendment 1473
Peter Simon

Proposal for a directive
Article 94 – paragraph 2 – point a

Text proposed by the Commission

(a) if a Member State has availed itself of the option provided for in Article 99(5) of this Directive to use the funds of Deposit Guarantee Scheme for the purposes of Article 92 of this Directive, the contribution from each institution shall be pro-rata to the amount of its liabilities excluding own funds and deposits guaranteed under Directive 94/19/EC with respect to the total liabilities, excluding own funds and deposits guaranteed under Directive 94/19/EC, of all the institutions authorised in the territory of the Member State.

Amendment

(a) **the** contribution from each institution shall be pro-rata to the amount of its liabilities excluding own funds and deposits guaranteed under Directive 94/19/EC with respect to the total liabilities, excluding own funds and deposits guaranteed under Directive 94/19/EC, of all the institutions authorised in the territory of the Member State.

Or. de

Amendment 1474
Mario Mauro, Alfredo Pallone

Proposal for a directive
Article 94 – paragraph 2 – point a

Text proposed by the Commission

(a) if a Member State has availed itself of the option provided for in Article 99(5) of this Directive to use the funds of Deposit Guarantee Scheme for the purposes of Article 92 of this Directive, the contribution from each institution shall be pro-rata to the amount of its liabilities excluding own funds and deposits guaranteed under Directive 94/19/EC with respect to the total liabilities, excluding own funds and deposits guaranteed under Directive 94/19/EC, of all the institutions authorised in the territory of the Member

Amendment

(a) the contribution from each institution shall be pro-rata to the amount of its liabilities excluding own funds and deposits guaranteed under Directive 94/19/EC with respect to the total liabilities, excluding own funds and deposits guaranteed under Directive 94/19/EC, of all the institutions authorised in the territory of the Member State.

State.

Or. en

Amendment 1475

Marisa Matias, Jürgen Klute

Proposal for a directive

Article 94 – paragraph 2 – point a

Text proposed by the Commission

(a) if a Member State has availed itself of the option provided for in Article 99(5) of this Directive to use the funds of Deposit Guarantee Scheme for the purposes of Article 92 of this Directive, the contribution from each institution shall be pro-rata to the amount of its liabilities excluding own funds and deposits guaranteed under Directive 94/19/EC with respect to the total liabilities, excluding own funds and deposits guaranteed under Directive 94/19/EC, of all the institutions authorised in the territory of the Member State.

Amendment

(a) the contribution from each institution shall be pro-rata to the **total** amount of its liabilities, excluding own funds and deposits guaranteed under **the** Directive 94/19/EC, with respect to the total liabilities, excluding own funds and deposits guaranteed under **the** Directive 94/19/EC, of all the institutions authorised in the territory of the Member State.

Or. en

Amendment 1476

Burkhard Balz, Werner Langen

Proposal for a directive

Article 94 – paragraph 2 – point b

Text proposed by the Commission

(b) if a Member State has not availed itself of the option provided for in Article 99(5) to use the funds of the Deposit Guarantee Scheme for the purposes of Article 92, the contribution from each institution shall be pro-rata to the total amount of its liabilities, excluding own

Amendment

deleted

funds, with respect to the total liabilities, excluding own funds, of all the institutions authorised in the territory of the Member State.

Or. en

Amendment 1477
Peter Simon

Proposal for a directive
Article 94 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) if a Member State has not availed itself of the option provided for in Article 99(5) to use the funds of the Deposit Guarantee Scheme for the purposes of Article 92, the contribution from each institution shall be pro-rata to the total amount of its liabilities, excluding own funds, with respect to the total liabilities, excluding own funds, of all the institutions authorised in the territory of the Member State.

deleted

Or. de

Amendment 1478
Mario Mauro, Alfredo Pallone

Proposal for a directive
Article 94 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) if a Member State has not availed itself of the option provided for in Article 99(5) to use the funds of the Deposit Guarantee Scheme for the purposes of Article 92, the contribution from each institution shall be pro-rata to the total amount of its liabilities, excluding own

deleted

funds, with respect to the total liabilities, excluding own funds, of all the institutions authorised in the territory of the Member State.

Or. en

Amendment 1479
Elisa Ferreira

Proposal for a directive
Article 94 – paragraph 2 – point b

Text proposed by the Commission

(b) if a Member State has not availed itself of the option provided for in Article 99(5) to use the funds of the Deposit Guarantee Scheme for the purposes of Article 92, the contribution from each institution shall be pro-rata to the total amount of its liabilities, excluding own funds, with respect to the total liabilities, excluding own funds, of all the institutions authorised in the territory of the Member State.

Amendment

(b) the contribution from each institution shall be pro-rata to the total amount of its liabilities, excluding own funds, with respect to the total liabilities, excluding own funds, of all the institutions authorised in the territory of the Member State.

Or. en

Amendment 1480
Andreas Schwab

Proposal for a directive
Article 94 – paragraph 2 – point b

Text proposed by the Commission

(b) if a Member State has not availed itself of the option provided for in Article 99(5) to use the funds of the Deposit Guarantee Scheme for the purposes of Article 92, the contribution from each institution shall be pro-rata to the total amount of its liabilities, excluding own

Amendment

(b) the contribution from each institution shall be levied on the basis of its total relevant equity and liabilities. These are calculated by subtracting the own funds and the debts to clients together with the total relevant off-balance-sheet derivatives from the total equity and liabilities.

funds, with respect to the total liabilities, excluding own funds, of all the institutions authorised in the territory of the Member State.

If the amount of the total relevant equity and liabilities is between EUR 300 million and EUR 10 billion, it shall be multiplied by 0.0002. If the amount of the total relevant equity and liabilities is between EUR 10 billion and EUR 100 billion, it shall be multiplied by 0.0003. If the amount of the total relevant equity and liabilities is in excess of EUR 100 billion, it shall be multiplied by 0.0004. The total relevant derivatives are calculated from the nominal volume of the off-balance-sheet futures and are multiplied by 0.000003. The amounts derived from the above multiplication operations are added together. The latest year-end accounts shall be crucial in calculating the contribution for the year.

Or. de

Amendment 1481
Peter Simon

Proposal for a directive
Article 94 – paragraph 2 – point c

Text proposed by the Commission

(c) the contributions calculated under (a) **and (b)** shall be adjusted in proportion to the risk profile of institutions, in accordance with the criteria adopted under paragraph 7 of this Article.

Amendment

(c) the contributions calculated under (a) shall be adjusted in proportion to the risk profile of institutions, in accordance with the criteria adopted under paragraph 7 of this Article.

Or. de

Amendment 1482
Elisa Ferreira

Proposal for a directive
Article 94 – paragraph 2 – point c

Text proposed by the Commission

(c) the contributions *calculated under (a) and (b)* shall be adjusted in proportion to the risk profile of institutions, in accordance with the criteria adopted under paragraph 7 of this Article.

Amendment

(c) the contributions shall be adjusted in proportion to the risk profile of institutions, in accordance with the criteria adopted under paragraph 7 of this Article.

Or. en

Amendment 1483
Olle Schmidt

Proposal for a directive
Article 94 – paragraph 2 – point c

Text proposed by the Commission

(c) the contributions calculated under (a) and (b) shall be adjusted in proportion to the risk profile of institutions, *in accordance with the criteria adopted under paragraph 7 of this Article.*

Amendment

(c) the contributions calculated under (a) and (b) shall be adjusted in proportion to the risk profile of institutions, *based on risk weighted assets.*

Or. en

Justification

Contributions to financial arrangements shall be risk-adjusted and should for example be based on risk-weighted assets as it is a transparent and accepted way to assess the risk the risk profile of the institution.

Amendment 1484
Mario Mauro, Alfredo Pallone

Proposal for a directive
Article 94 – paragraph 2 – point c

Text proposed by the Commission

(c) the contributions calculated under (a) **and (b)** shall be adjusted in proportion to the risk profile of institutions, in accordance with the criteria adopted under paragraph 7 of this Article.

Amendment

(c) the contributions calculated under (a) shall be adjusted in proportion to the risk profile of institutions, in accordance with the criteria adopted under paragraph 7 of this Article.

Or. en

Amendment 1485
Burkhard Balz, Werner Langen

Proposal for a directive
Article 94 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(c a) the annual contributions applied in the Member States which aim at mitigating the costs of resolution for the public are accountable to the contributions of this Directive.

Or. en

Amendment 1486
Mario Mauro, Alfredo Pallone

Proposal for a directive
Article 94 – paragraph 3

Text proposed by the Commission

Amendment

3. The available financial means to be taken into account in order to reach the target level specified in Article 93 may include payment commitments which are fully backed by collateral of low risk assets unencumbered by any third party rights, at the free disposal and earmarked for the exclusive use by the resolution authorities for the purposes specified in the first

3. The available financial means to be taken into account in order to reach the target level specified in Article 93 may include payment commitments which are fully backed by collateral of low risk assets unencumbered by any third party rights, at the free disposal and earmarked for the exclusive use by the resolution authorities for the purposes specified in the first

paragraph of Article 92. ***The share of irrevocable payment commitments shall not exceed 30% of the total amount of contributions raised in accordance with this Article.***

paragraph of Article 92.

Or. en

Amendment 1487

Diogo Feio

Proposal for a directive

Article 94 – paragraph 3

Text proposed by the Commission

3. The available financial means to be taken into account in order to reach the target level specified in Article 93 may include payment commitments which are fully backed by collateral of low risk assets unencumbered by any third party rights, at the free disposal and earmarked for the exclusive use by the resolution authorities for the purposes specified in the first paragraph of Article 92. The share of irrevocable payment commitments shall not exceed **30%** of the total amount of contributions raised in accordance with this Article.

Amendment

3. The available financial means to be taken into account in order to reach the target level specified in Article 93 may include payment commitments which are fully backed by collateral of low risk assets unencumbered by any third party rights, at the free disposal and earmarked for the exclusive use by the resolution authorities for the purposes specified in the first paragraph of Article 92. The share of irrevocable payment commitments shall not exceed **50%** of the total amount of contributions raised in accordance with this Article.

Or. en

Justification

DGS and Resolution Funds should be completely separated and independent (see proposed AM to Article 91). 30% is too low, payment commitments are backed up by low risk collateral which are earmarked to the exclusive use by the resolution authorities; therefore, a higher percentage of payment commitments would still allow, on the one hand, solid financing of the resolution fund and, on the other, more available funds to the contributing banks.

Amendment 1488

Elisa Ferreira

Proposal for a directive
Article 94 – paragraph 3

Text proposed by the Commission

3. The available financial means to be taken into account in order to reach the target level specified in Article 93 may include payment commitments which are fully backed by collateral of low risk assets unencumbered by any third party rights, at the free disposal and earmarked for the exclusive use by the resolution authorities for the purposes specified in the first paragraph of Article 92. The share of irrevocable payment commitments shall not exceed **30%** of the total amount of contributions raised in accordance with this Article.

Amendment

3. The available financial means to be taken into account in order to reach the target level specified in Article 93 may include payment commitments which are fully backed by collateral of low risk assets unencumbered by any third party rights, at the free disposal and earmarked for the exclusive use by the resolution authorities for the purposes specified in the first paragraph of Article 92. The share of irrevocable payment commitments shall not exceed **50%** of the total amount of contributions raised in accordance with this Article.

Or. en

Amendment 1489
Peter Simon

Proposal for a directive
Article 94 – paragraph 3

Text proposed by the Commission

3. The available financial means to be taken into account in order to reach the target level specified in Article 93 may include payment commitments which are fully backed by collateral of low risk assets unencumbered by any third party rights, at the free disposal and earmarked for the exclusive use by the resolution authorities for the purposes specified in the first paragraph of Article 92. The share of irrevocable payment commitments shall not exceed **30%** of the total amount of contributions raised in accordance with this Article.

Amendment

3. The available financial means to be taken into account in order to reach the target level specified in Article 93 may include payment commitments which are fully backed by collateral of low risk assets unencumbered by any third party rights, at the free disposal and earmarked for the exclusive use by the resolution authorities for the purposes specified in the first paragraph of Article 92. The share of irrevocable payment commitments shall not exceed **10%** of the total amount of contributions raised in accordance with this Article.

Justification

In its Position on the Directive on deposit-guarantee schemes of 16/02/12, Parliament limited the share of irrevocable payment obligations to 10% of the available funds. The Council Common Position of June 2011 on the Directive on deposit-guarantee schemes also provides for irrevocable payment obligations up to a maximum of 10% of the available funds.

Amendment 1490

Elisa Ferreira

Proposal for a directive

Article 94 – paragraph 5

Text proposed by the Commission

5. The amounts raised in accordance with this Article shall only be used for the purposes specified in Article 92 of this Directive, *and, where Member States have availed themselves of the option provided for under Article 99(5) of this Directive, for the purposes specified in Article 92 of this Directive or for the repayment of deposits guaranteed under Directive 94/19/EC.*

Amendment

5. The amounts raised in accordance with this Article shall only be used for the purposes specified in Article 92 of this Directive.

Amendment 1491

Mario Mauro, Alfredo Pallone

Proposal for a directive

Article 94 – paragraph 5

Text proposed by the Commission

5. The amounts raised in accordance with this Article shall only be used for the purposes specified in Article 92 of this Directive, *and, where Member States have availed themselves of the option provided for under Article 99(5) of this Directive,*

Amendment

5. The amounts raised in accordance with this Article shall only be used for the purposes specified in Article 92 of this Directive, *and for the purposes specified in Article 92 of this Directive or for the repayment of deposits guaranteed under*

for the purposes specified in Article 92 of this Directive or for the repayment of deposits guaranteed under Directive 94/19/EC.

Directive 94/19/EC.

Or. en

Amendment 1492
Marisa Matias, Jürgen Klute

Proposal for a directive
Article 94 – paragraph 5

Text proposed by the Commission

5. The amounts raised in accordance with this Article shall only be used for the purposes specified in Article 92 of this Directive, *and, where Member States have availed themselves of the option provided for under Article 99(5) of this Directive, for the purposes specified in Article 92 of this Directive or for the repayment of deposits guaranteed under Directive 94/19/EC.*

Amendment

5. The amounts raised in accordance with this Article shall only be used for the purposes specified in Article 92 of this Directive.

Or. en

Amendment 1493
Olle Schmidt

Proposal for a directive
Article 94 – paragraph 7

Text proposed by the Commission

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 103 in order specify the notion of adjusting contributions in proportion to the risk profile of institutions as referred to in paragraph 2 (c) of this Article, taking into account the following:

Amendment

deleted

- (a) the risk exposure of the institution, including the importance of its trading activities, its off-balance sheet exposures and its degree of leverage;*
- (b) the stability and variety of the company's sources of funding;*
- (c) the financial condition of the institution;*
- (d) the probability that the institution enters into resolution;*
- (e) the extent to which the institution has previously benefited from State support;*
- (f) the complexity of the structure of the institution and the resolvability of the institution, and*
- (g) its systemic importance for the market in question.*

Or. en

Justification

Rules around financial arrangements relates to the essential elements of the legislative act and therefore should not, in accordance with Article 290 TFEU, be delegated to the Commission. Rules regarding financial arrangements can have implications on state budgetary issues.

Amendment 1494
Andreas Schwab

Proposal for a directive
Article 94 – paragraph 7

Text proposed by the Commission

Amendment

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 103 in order specify the notion of adjusting contributions in proportion to the risk profile of institutions as referred to in paragraph 2 (c) of this Article, taking into account the following:

deleted

(a) the risk exposure of the institution, including the importance of its trading activities, its off-balance sheet exposures and its degree of leverage;

(b) the stability and variety of the company's sources of funding;

(c) the financial condition of the institution;

(d) the probability that the institution enters into resolution;

(e) the extent to which the institution has previously benefited from State support;

(f) the complexity of the structure of the institution and the resolvability of the institution, and

(g) its systemic importance for the market in question.

Or. de

Amendment 1495

Sari Essayah

Proposal for a directive

Article 94 – paragraph 7 – introductory part

Text proposed by the Commission

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 103 in order specify the notion of adjusting contributions in proportion to the risk profile of institutions as referred to in paragraph 2 (c) of this Article, taking into account the **following**:

Amendment

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 103 in order specify the notion of adjusting contributions in proportion to the risk profile of institutions as referred to in paragraph 2 (c) of this Article, taking into account the ***Risk Weighted Assets of the institution calculated in accordance with Article 87(3) of Regulation (EU) No .../201x of the European Parliament and of the Council of ... [on prudential requirements for credit institutions and investment firms]***.

Or. en

Justification

The contribution should be calculated by taking into account the risk profile of the institution. It is however important to avoid creating too complicated calculations methods as this may leave room for national discretion and lead to inconsistent treatment between institutions. The risk weighted assets (RWA) is the most suitable indicator to meet these objectives

Amendment 1496

Nils Torvalds, Olle Schmidt

Proposal for a directive

Article 94 – paragraph 7 – introductory part

Text proposed by the Commission

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 103 in order specify the notion of adjusting contributions in proportion to the risk profile of institutions as referred to in paragraph 2 (c) of this Article, taking into account the **following**:

Amendment

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 103 in order specify the notion of adjusting contributions in proportion to the risk profile of institutions as referred to in paragraph 2 (c) of this Article, taking into account the ***Risk Weighted Assets of the institution calculated in accordance with Article 87(3) of Regulation (EU) No .../201x of the European Parliament and of the Council of ... [on prudential requirements for credit institutions and investment firms]***.

Or. en

Amendment 1497

Sari Essayah

Proposal for a directive

Article 94 – paragraph 7 – point a

Text proposed by the Commission

(a) the risk exposure of the institution, including the importance of its trading activities, its off-balance sheet exposures and its degree of leverage;

Amendment

deleted

Amendment 1498
Nils Torvalds

Proposal for a directive
Article 94 – paragraph 7 – point a

Text proposed by the Commission

Amendment

(a) the risk exposure of the institution, including the importance of its trading activities, its off-balance sheet exposures and its degree of leverage;

deleted

Or. en

Amendment 1499
Leonardo Domenici

Proposal for a directive
Article 94 – paragraph 7 – point a a (new)

Text proposed by the Commission

Amendment

(a a) the existence of a risk mitigating cooperative solidarity system, which ensures the prevention of resolution events by reporting requirements and early interventions in the sense of the DGS Directive;

Or. en

Amendment 1500
Gianni Pittella

Proposal for a directive
Article 94 – paragraph 7 – point a a (new)

Text proposed by the Commission

Amendment

(a a) the existence of a risk mitigating cooperative solidarity system, which ensures the prevention of resolution events by reporting requirements and early interventions in the sense of the DGS Directive;

Or. en

Amendment 1501

Sari Essayah

Proposal for a directive

Article 94 – paragraph 7 – point b

Text proposed by the Commission

Amendment

(b) the stability and variety of the company's sources of funding;

deleted

Or. en

Amendment 1502

Nils Torvalds

Proposal for a directive

Article 94 – paragraph 7 – point b

Text proposed by the Commission

Amendment

(b) the stability and variety of the company's sources of funding;

deleted

Or. en

Amendment 1503

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a directive
Article 94 – paragraph 7 – point b

Text proposed by the Commission

(b) the stability and variety of the company's sources of funding;

Amendment

(b) the stability and variety of the company's sources of funding **and unencumbered highly liquid assets**;

Or. en

Amendment 1504
Burkhard Balz, Werner Langen

Proposal for a directive
Article 94 – paragraph 7 – point b a (new)

Text proposed by the Commission

Amendment

(b a) the existence of a risk mitigating solidarity system, which aims at the prevention of resolution events by reporting requirements and early interventions in the sense of the resolution of the European Parliament of 16 February 2012 on the proposal for a directive of the European Parliament and the Council on Deposit Guarantee Schemes (recast);

Or. en

Amendment 1505
Sari Essayah

Proposal for a directive
Article 94 – paragraph 7 – point c

Text proposed by the Commission

Amendment

(c) the financial condition of the institution;

deleted

Or. en

Amendment 1506
Nils Torvalds

Proposal for a directive
Article 94 – paragraph 7 – point c

Text proposed by the Commission

Amendment

(c) the financial condition of the institution;

deleted

Or. en

Amendment 1507
Sari Essayah

Proposal for a directive
Article 94 – paragraph 7 – point d

Text proposed by the Commission

Amendment

(d) the probability that the institution enters into resolution;

deleted

Or. en

Amendment 1508
Nils Torvalds

Proposal for a directive
Article 94 – paragraph 7 – point d

Text proposed by the Commission

Amendment

(d) the probability that the institution enters into resolution;

deleted

Or. en

Amendment 1509
Mario Mauro, Alfredo Pallone

Proposal for a directive
Article 94 – paragraph 7 – point d

Text proposed by the Commission

Amendment

(d) the probability that the institution enters into resolution; ***deleted***

Or. en

Amendment 1510
Sari Essayah

Proposal for a directive
Article 94 – paragraph 7 – point e

Text proposed by the Commission

Amendment

(e) the extent to which the institution has previously benefited from State support; ***deleted***

Or. en

Amendment 1511
Nils Torvalds

Proposal for a directive
Article 94 – paragraph 7 – point e

Text proposed by the Commission

Amendment

(e) the extent to which the institution has previously benefited from State support; ***deleted***

Or. en

Amendment 1512
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive
Article 94 – paragraph 7 – point e

Text proposed by the Commission

(e) the extent to which the institution has previously benefited from **State** support;

Amendment

(e) the extent to which the institution has previously benefited from **extraordinary public financial** support ;

Or. en

Amendment 1513
Sari Essayah

Proposal for a directive
Article 94 – paragraph 7 – point f

Text proposed by the Commission

(f) the complexity of the structure of the institution and the resolvability of the institution, and

Amendment

deleted

Or. en

Amendment 1514
Nils Torvalds

Proposal for a directive
Article 94 – paragraph 7 – point f

Text proposed by the Commission

(f) the complexity of the structure of the institution and the resolvability of the institution, and

Amendment

deleted

Or. en

Amendment 1515
Anne E. Jensen, Bendt Bendtsen

Proposal for a directive
Article 94 – paragraph 7 – point f

Text proposed by the Commission

(f) the complexity of the structure of the institution and the resolvability of the institution, **and**

Amendment

(f) the complexity of the structure of the institution and the resolvability of the institution,

Or. en

Amendment 1516
Sari Essayah

Proposal for a directive
Article 94 – paragraph 7 – point g

Text proposed by the Commission

(g) its systemic importance for the market in question.

deleted

Amendment

Or. en

Amendment 1517
Nils Torvalds

Proposal for a directive
Article 94 – paragraph 7 – point g

Text proposed by the Commission

(g) its systemic importance for the market in question.

deleted

Amendment

Or. en

Amendment 1518
Elisa Ferreira

Proposal for a directive
Article 94 – paragraph 7 – point g

Text proposed by the Commission

(g) its systemic importance for the market in question.

Amendment

(g) its systemic importance for the market in question, ***its opacity and its interconnectedness.***

Or. en

Amendment 1519
Anne E. Jensen, Bendt Bendtsen

Proposal for a directive
Article 94 – paragraph 7 – point g a (new)

Text proposed by the Commission

Amendment

(g a) business models and balance-sheet structures of institutions, and

Or. en

Amendment 1520
Herbert Dorfmann

Proposal for a directive
Article 94 – paragraph 7 – point g a (new)

Text proposed by the Commission

Amendment

(g a) the existence of a risk mitigating cooperative solidarity system, which ensures the prevention of resolution events by reporting requirements and early interventions in the sense of the DGS Directive;

Or. en

Amendment 1521
Peter Simon, Udo Bullmann

Proposal for a directive
Article 94 – paragraph 7 – point g a (new)

Text proposed by the Commission

Amendment

***(ga) membership of a guarantee scheme
in accordance with Article 80(8) of
Directive 2006/48/EC.***

Or. de

Amendment 1522
Anne E. Jensen, Bendt Bendtsen

Proposal for a directive
Article 94 – paragraph 7 – point g b (new)

Text proposed by the Commission

Amendment

(g b) institutions' risk-taking behaviour.

Or. en

Amendment 1523
Wolf Klinz

Proposal for a directive
Article 95

Text proposed by the Commission

Amendment

Article 95

deleted

Extraordinary ex post contributions

***1. Where the available financial means
are not sufficient to cover the losses, costs
or other expenses incurred by the use of
the financing arrangements, Member
States shall ensure that extraordinary ex
post contributions are raised from the
institutions authorised in their territory,***

in order to cover the additional amounts. These extraordinary contributions shall be allocated between institutions in accordance with the rules set out in Article 94(2).

2. The provisions of Article 94(4) to (8) shall be applicable to the contributions raised under this article.

Or. en

Amendment 1524
Burkhard Balz, Werner Langen

Proposal for a directive
Article 95

Text proposed by the Commission

Amendment

Article 95

deleted

Extraordinary ex post contributions

1. Where the available financial means are not sufficient to cover the losses, costs or other expenses incurred by the use of the financing arrangements, Member States shall ensure that extraordinary ex post contributions are raised from the institutions authorised in their territory, in order to cover the additional amounts. These extraordinary contributions shall be allocated between institutions in accordance with the rules set out in Article 94(2).

2. The provisions of Article 94(4) to (8) shall be applicable to the contributions raised under this article.

Or. en

Amendment 1525
Olle Schmidt

Proposal for a directive
Article 95

Text proposed by the Commission

Amendment

Article 95

deleted

Or. en

Justification

Ex-post contributions will lead to pro-cyclicality and can stir potential systemic crises because the institutions at the time when they are least able, will be required to contribute additional funds to the financing arrangement. Instead an explicit government guarantee can be used to prevent the need for ex post contributions and can help to strengthen confidence so that the contributions shall be adequately funded, even in a systemic crisis.

Amendment 1526
Astrid Lulling

Proposal for a directive
Article 95 – paragraph 1

Text proposed by the Commission

Amendment

1. Where the available financial means are not sufficient to cover the losses, costs or other expenses incurred by the use of the financing arrangements, Member States shall ensure that extraordinary ex post contributions are raised from the institutions authorised in their territory, in order to cover the additional amounts. These extraordinary contributions shall be allocated between institutions in accordance with the rules set out in Article 94(2).

1. Where the available financial means are not sufficient to cover the losses, costs or other expenses incurred by the use of the financing arrangements, Member States shall ensure that extraordinary ex post contributions are raised from the institutions authorised in their territory, in order to cover the additional amounts. These extraordinary contributions shall be allocated between institutions in accordance with the rules set out in Article 94(2). ***However, such contributions shall not exceed an annual affordability threshold for contributions set by the financing arrangement.***

Or. en

Justification

This article creates the possibility of unlimited ex post contributions to the resolution fund from surviving banks after a failure or crisis of a bank, when the available financial means are not sufficient. While this introduces a safeguard for taxpayers it may also lower the possibility of surviving banks to recover their capital buffers after losses in a systemic crisis and thereby curtail their supply of credit to the real economy. The requirement therefore must be proportionate to the circumstances and be subject to an annual affordability threshold set by the resolution fund.

Amendment 1527

Mario Mauro, Alfredo Pallone

Proposal for a directive

Article 95 – paragraph 1

Text proposed by the Commission

1. Where the available financial means are not sufficient to cover the losses, costs or other expenses incurred by the use of the financing arrangements, Member States shall ensure that extraordinary ex post contributions are raised from the institutions authorised in their territory, in order to cover the additional amounts. These extraordinary contributions shall be allocated between institutions in accordance with the rules set out in Article 94(2).

Amendment

1. Where the available financial means are not sufficient to cover the losses, costs or other expenses incurred by the use of the financing arrangements, Member States shall ensure that extraordinary ex post contributions ***not exceeding 0.25% of covered deposits per calendar year*** are raised from the institutions authorised in their territory, in order to cover the additional amounts. These extraordinary contributions shall be allocated between institutions in accordance with the rules set out in Article 94(2). ***However, such contributions shall not exceed an annual affordability threshold for contributions set by the financing arrangement.***

The credit institution may entirely or partially be exempted from the obligation referred to in the second subparagraph if this would jeopardise the settlement of claims of other creditors against it. Such exemption shall not be granted for a longer period than 6 months but may be renewed on request of the credit institution.

Or. en

Amendment 1528
Vicky Ford

Proposal for a directive
Article 95 – paragraph 1

Text proposed by the Commission

1. Where the available financial means are not sufficient to cover the losses, costs or other expenses incurred by the use of the financing arrangements, Member States shall ensure that extraordinary ex post contributions are raised from the institutions authorised in their territory, **in order** to cover the additional amounts. These extraordinary contributions shall be allocated between institutions in accordance with the rules set out in Article 94(2).

Amendment

1. Where the available financial means are not sufficient to cover the losses, costs or other expenses incurred by the use of the financing arrangements, Member States shall ensure that extraordinary ex post contributions are raised from the institutions authorised in their territory. ***The amount of extraordinary ex post contributions shall be determined by the competent authority subject to a limit set by the competent ministry which may be less than the amount required*** to cover the additional amounts. These extraordinary contributions shall be allocated between institutions in accordance with the rules set out in Article 94(2).

Or. en

Justification

This amendment ensures a cap on the ex-post contributions from industry to avoid contagion and seek financial stability.

Amendment 1529
Wolf Klinz

Proposal for a directive
Article 96

Text proposed by the Commission

Article 96
Alternative funding means

Amendment

deleted

Member States shall ensure that financing arrangements under their jurisdiction are enabled to contract borrowings or other forms of support from financial institutions, the central bank, or other third parties, in the event that the amounts raised in accordance with Article 94 are not sufficient to cover the losses, costs or other expenses incurred by the use of the financing arrangements, and the extraordinary contributions provided for in Article 95 are not immediately accessible.

Or. en

Amendment 1530
Burkhard Balz, Werner Langen

Proposal for a directive
Article 96 – paragraph 1

Text proposed by the Commission

Member States shall ensure that financing arrangements under their jurisdiction are enabled to contract borrowings or other forms of support from financial institutions, the central bank, or other third parties, in the event that the amounts raised in accordance with Article 94 are not sufficient to cover the losses, costs or other expenses incurred by the use of the financing arrangements, and *the extraordinary contributions provided for in Article 95 are not immediately accessible.*

Amendment

Member States shall ensure that financing arrangements under their jurisdiction are enabled to contract borrowings or other forms of support from financial institutions, the central bank, or other third parties, in the event that the amounts raised in accordance with Article 94 are not sufficient to cover the losses, costs or other expenses incurred by the use of the financing arrangements, and *ex-post contributions are not deemed possible due to the risk to overall financial stability which such ex-post contributions would create.*

Or. en

Amendment 1531
Olle Schmidt

Proposal for a directive
Article 96 – paragraph 1 – subparagraph 1a (new)

Text proposed by the Commission

Amendment

Article 96 should not limit the ability of national financing arrangements to secure state guarantees, subject to that these guarantees are paid for by the arrangement through an actuarial fee.

Or. en

Justification

The Directives low minimum funding requirement may cause the credibility of the financing arrangements in a financial crisis to be hit. The recent financial crisis in Europe resulted in costs that far exceed the statutory minimum requirement for financing arrangements. In the light of this, the Member States' ability to issue state guarantees to finance arranged credit commitments should not be restricted. Any government guarantees should be paid by contributions against an eventual cost.

Amendment 1532
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive
Article 96 – paragraph 1

Text proposed by the Commission

Amendment

Member States shall ensure that financing arrangements under their jurisdiction are enabled to contract borrowings or other forms of support from financial institutions, ***the central bank***, or other third parties, in the event that the amounts raised in accordance with Article 94 are not sufficient to cover the losses, costs or other expenses incurred by the use of the financing arrangements, and the extraordinary contributions provided for in Article 95 are not immediately accessible.

Member States shall ensure that financing arrangements under their jurisdiction are enabled to contract borrowings or other forms of support from financial institutions, or other third parties, in the event that the amounts raised in accordance with Article 94 are not sufficient to cover the losses, costs or other expenses incurred by the use of the financing arrangements, and the extraordinary contributions provided for in Article 95 are not immediately accessible.

Or. en

Amendment 1533
Sari Essayah

Proposal for a directive
Article 97

Text proposed by the Commission

Amendment

Article 97

deleted

Or. en

Justification

The proposed arrangement for borrowing between Member State financing arrangements is inappropriate given that it breaks the link between responsibility and liability and has the potential to act as an avenue for contagion across Member States. Borrowing between financing arrangements should be based on voluntary (contractual) agreements between Member States and be in line with the treatment of recast of the Deposit Guarantee Scheme Directive.

Amendment 1534
Wolf Klinz

Proposal for a directive
Article 97

Text proposed by the Commission

Amendment

Article 97

deleted

Or. en

Amendment 1535
Markus Ferber

Proposal for a directive
Article 97

Text proposed by the Commission

Amendment

Article 97

deleted

Or. de

Justification

Institutions in one Member State are not privy to the risk structures of institutions in other Member States. The guarantee schemes of individual Member States should therefore be kept strictly separate. In view of public discussion, this would seem to be an essential condition for public acceptance of the provisions of this directive.

Amendment 1536

Vicky Ford

Proposal for a directive

Article 97

Text proposed by the Commission

Amendment

Article 97

deleted

Or. en

Amendment 1537

Werner Langen

Proposal for a directive

Article 97

Text proposed by the Commission

Amendment

Article 97

deleted

Or. de

Amendment 1538

Werner Langen

Proposal for a directive
Article 97 – title

Text proposed by the Commission

Borrowing between financing arrangements

Amendment

Ban on borrowing between financing arrangements

Or. de

Amendment 1539
Peter Simon

Proposal for a directive
Article 97 – title

Text proposed by the Commission

Borrowing between financing arrangements

Amendment

Voluntary lending between financial arrangements

Or. de

Amendment 1540
Burkhard Balz, Werner Langen

Proposal for a directive
Article 97 – paragraph 1

Text proposed by the Commission

1. Member States **shall** ensure that financing arrangements under their jurisdiction **shall** have the **right** to borrow from all other financing arrangements within the Union, in the event that the amounts raised under Article 94 are not sufficient to cover the losses, costs or other expense incurred by the use of the financing arrangements, and the extraordinary contributions foreseen in Article 95 are not immediately accessible.

Amendment

1. Member States **may** ensure that financing arrangements under their jurisdiction have the **opportunity** to borrow from all other financing arrangements within the Union **for the resolution of cross-border institutions**, in the event that the amounts raised under Article 94 are not sufficient to cover the losses, costs or other expense incurred by the use of the financing arrangements, and the extraordinary contributions foreseen in Article 95 are not immediately accessible.

Amendment 1541
Peter Simon

Proposal for a directive
Article 97 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that financing arrangements under their jurisdiction shall have the right to **borrow** from all other financing arrangements within the Union, in the event that the amounts raised under Article 94 are not sufficient to cover the losses, costs or other expense incurred by the use of the financing arrangements, and the extraordinary contributions foreseen in Article 95 are not immediately accessible.

Amendment

1. Member States shall ensure that financing arrangements under their jurisdiction shall have the right to **apply for loans** from all other financing arrangements within the Union, in the event that the amounts raised under Article 94 are not sufficient to cover the losses, costs or other expense incurred by the use of the financing arrangements, and the extraordinary contributions foreseen in Article 95 are not immediately accessible.

Or. de

Justification

It should be possible to provide loans on a voluntary basis.

Amendment 1542
Werner Langen

Proposal for a directive
Article 97 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that financing arrangements under their jurisdiction shall **have the right** to borrow from **all** other financing arrangements within the Union, **in the event that the amounts raised under Article 94 are not sufficient to cover the losses, costs or other expense incurred by the use of the**

Amendment

1. Member States shall ensure that financing arrangements under their jurisdiction shall **under no circumstances be permitted** to borrow from other financing arrangements within the Union **or to grant loans to other** financing arrangements **within the Union**.

financing arrangements, *and the extraordinary contributions foreseen in Article 95 are not immediately accessible.*

Or. de

Justification

Borrowing between financing arrangements increases the moral hazard and the risk of contagion.

Amendment 1543
Gunnar Hökmark

Proposal for a directive
Article 97 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that financing arrangements under their jurisdiction shall have the **right** to borrow from all other financing arrangements within the Union, in the event that the amounts raised under Article 94 are not sufficient to cover the losses, costs or other expense incurred by the use of the financing arrangements, *and the extraordinary contributions foreseen in Article 95 are not immediately accessible.*

Amendment

1. Member States shall ensure that financing arrangements under their jurisdiction shall have the **opportunity** to borrow from all other financing arrangements within the Union, in the event that the amounts raised under Article 94 are not sufficient to cover the losses, costs or other expense incurred by the use of the financing arrangements.

Or. en

Justification

An automatic right to borrow from other Member State's resolution funds would pose a non-neglectable moral hazard risk. Whilst burden-sharing will be needed for cross-border institutions, it should be clarified that for standard resolution, i.e. not a cross-border institution, there should be no obligation for one Member State to lend to another, but rather an opportunity to do so if the former Member State so concurs.

Amendment 1544
Marisa Matias, Jürgen Klute

Proposal for a directive
Article 97 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. These loans should be made from all other financing arrangements within the union, in proportion to the total liabilities, excluding own funds and deposits guaranteed under Directive 94/19/EC, of all the credit institutions authorised in the corresponding territory.

Or. en

Amendment 1545
Werner Langen

Proposal for a directive
Article 97 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States shall ensure that financing arrangements under their jurisdiction are obliged to lend to other financing arrangements within the Union in the circumstances specified under paragraph 1.

deleted

Subject to the first subparagraph, national financing arrangements shall not be obliged to lend to another national financing arrangement in those circumstances when the resolution authority of the Member State of the financing arrangement considers that it would not have sufficient funds to finance any foreseeable resolution in the near future. In any case they should not be obliged to lend more than half of the funds that the national financing arrangement has available at the moment when the borrowing request is formalised.

Amendment 1546
Werner Langen

Proposal for a directive
Article 97 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

Member States shall ensure that financing arrangements under their jurisdiction are obliged to lend to other financing arrangements within the Union in the circumstances specified under paragraph 1.

deleted

Amendment 1547
Burkhard Balz, Werner Langen

Proposal for a directive
Article 97 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

Member States ***shall*** ensure that financing arrangements under their jurisdiction ***are obliged*** to lend to other financing arrangements within the Union in the circumstances specified under paragraph 1.

Member States ***may*** ensure that financing arrangements under their jurisdiction ***can be authorised by the resolution authority of that Member State*** to lend to other financing arrangements within the Union in the circumstances specified under paragraph 1.

Amendment 1548
Olle Schmidt

Proposal for a directive
Article 97 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Member States shall ensure that financing arrangements under their jurisdiction are **obliged** to lend to other financing arrangements within the Union in the circumstances specified under paragraph 1.

Amendment

Member States shall ensure that financing arrangements under their jurisdiction are **able** to lend to other financing arrangements within the Union in the circumstances specified under paragraph 1.

Or. en

Amendment 1549

Elisa Ferreira

Proposal for a directive

Article 97 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Member States shall ensure that financing arrangements under their jurisdiction **are obliged to** lend to other financing arrangements within the Union in the circumstances specified under paragraph 1.

Amendment

Member States shall ensure that financing arrangements under their jurisdiction **may** lend to other financing arrangements within the Union in the circumstances specified under paragraph 1.

Or. en

Amendment 1550

Diogo Feio

Proposal for a directive

Article 97 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Member States shall ensure that financing arrangements under their jurisdiction **are obliged to** lend to other financing arrangements within the Union in the circumstances specified under paragraph 1.

Amendment

Member States shall ensure that financing arrangements under their jurisdiction **may** lend to other financing arrangements within the Union in the circumstances specified under paragraph 1.

Or. en

Justification

there should not be a lending duty imposed.

Amendment 1551

Marisa Matias, Jürgen Klute

Proposal for a directive

Article 97 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Member States shall ensure that financing arrangements under their jurisdiction are obliged to lend to other financing arrangements within the Union in the circumstances specified under paragraph 1.

Amendment

Member States shall ensure that financing arrangements under their jurisdiction are obliged to lend to other financing arrangements within the Union in the circumstances specified under paragraph 1 **and in the conditions specified in paragraph 1a.**

Or. en

Amendment 1552

Peter Simon

Proposal for a directive

Article 97 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Member States shall ensure that financing arrangements under their jurisdiction **are obliged** to lend to other financing arrangements within the Union in the circumstances specified under paragraph 1.

Amendment

Member States shall ensure that financing arrangements under their jurisdiction **have the right** to lend **voluntarily** to other financing arrangements within the Union in the circumstances specified under paragraph 1.

Or. de

Amendment 1553

Slawomir Nitras

Proposal for a directive
Article 97 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Member States shall ensure that financing arrangements under their jurisdiction **are obliged** to lend to other financing arrangements within the Union in the circumstances specified under paragraph 1.

Amendment

Member States shall ensure that financing arrangements under their jurisdiction **have the right** to lend to other financing arrangements within the Union in the circumstances specified under paragraph 1.

Or. en

Justification

Borrowing between national financial arrangements can only be allowed if on a voluntary basis, since it endangers the capacity of the entity that provides support. In a systemic crisis such mutual arrangements might lead to contagion and leave a lending entity without sufficient funds for resolution in its own jurisdiction and no possibility to borrow from others. As for mutualisation of arrangements, the group financing plan should be jointly decided between all resolution authorities of institutions in the group. Absent a joint decision, each authority shall make its own decision.

Amendment 1554
Werner Langen

Proposal for a directive
Article 97 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Subject to the first subparagraph, national financing arrangements shall not be obliged to lend to another national financing arrangement in those circumstances when the resolution authority of the Member State of the financing arrangement considers that it would not have sufficient funds to finance any foreseeable resolution in the near future. In any case they should not be obliged to lend more than half of the funds that the national financing arrangement has available at the moment when the borrowing request is formalised.

Amendment

deleted

Amendment 1555
Elisa Ferreira

Proposal for a directive
Article 97 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

Subject to the first subparagraph, national financing arrangements shall not be obliged to lend to another national financing arrangement in those circumstances when the resolution authority of the Member State of the financing arrangement considers that it would not have sufficient funds to finance any foreseeable resolution in the near future. In any case they should not be obliged to lend more than half of the funds that the national financing arrangement has available at the moment when the borrowing request is formalised.

deleted

Amendment 1556
Burkhard Balz, Werner Langen

Proposal for a directive
Article 97 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

Subject to the first subparagraph, national financing arrangements shall not be ***obliged*** to lend to another national financing arrangement in those circumstances when the resolution authority of the Member State of the financing arrangement considers that it would not have sufficient funds to finance any foreseeable resolution in the near future. In

Subject to the first subparagraph, national financing arrangements shall not be ***authorised*** to lend to another national financing arrangement in those circumstances when the resolution authority of the Member State of the financing arrangement considers that it would not have sufficient funds to finance any foreseeable resolution in the near future. In

any case they should not be **obliged** to lend more than half of the funds that the national financing arrangement has available at the moment when the borrowing request is formalised.

any case they should not be **authorised** to lend more than half of the funds that the national financing arrangement has available at the moment when the borrowing request is formalised.

Or. en

Amendment 1557

Peter Simon

Proposal for a directive

Article 97 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Subject to the first subparagraph, national financing arrangements shall not **be obliged to** lend to another national financing arrangement in those circumstances when the resolution authority of the Member State of the financing arrangement considers that it would not have sufficient funds to finance any foreseeable resolution in the near future. In any case they **should not be obliged to** lend more than **half** of the funds that the national financing arrangement has available at the moment when the borrowing request is formalised.

Amendment

Subject to the first subparagraph, national financing arrangements shall not lend to another national financing arrangement in those circumstances when the resolution authority of the Member State of the financing arrangement considers that it would not have sufficient funds to finance any foreseeable resolution in the near future. In any case they **may** not lend more than **one third** of the funds that the national financing arrangement has available at the moment when the borrowing request is formalised.

Or. de

Amendment 1558

Olle Schmidt

Proposal for a directive

Article 97 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Subject to the first subparagraph, national financing arrangements shall not **be obliged to** lend to another national

Amendment

Subject to the first subparagraph, national financing arrangements shall not lend to another national financing arrangement in

financing arrangement in those circumstances when the resolution authority of the Member State of the financing arrangement considers that it would not have sufficient funds to finance any foreseeable resolution in the near future. In any case they should not be obliged to lend more than half of the funds that the national financing arrangement has available at the moment when the borrowing request is formalised.

those circumstances when the resolution authority of the Member State of the financing arrangement considers that it would not have sufficient funds to finance any foreseeable resolution in the near future. In any case they should not be obliged to lend more than half of the funds that the national financing arrangement has available at the moment when the borrowing request is formalised.

Or. en

Amendment 1559
Philippe Lamberts

Proposal for a directive
Article 97 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Subject to the first subparagraph, national financing arrangements shall not be obliged to lend to another national financing arrangement in those circumstances when the resolution authority of the Member State of the financing arrangement considers that it would not have sufficient funds to finance any foreseeable resolution in the near future. In any case they should not be obliged to lend more than half of the funds that the national financing arrangement has available at the moment when the borrowing request is formalised.

Amendment

Subject to the first subparagraph, national financing arrangements shall not be obliged to lend to another national financing arrangement in those circumstances when the resolution authority of the Member State of the financing arrangement considers that it would not have sufficient funds to finance any foreseeable resolution in the near future. ***In such a case, the resolution authority of the Member State concerned shall provide in writing the reasons for its refusal to lend to the requesting resolution authority and the Commission. The Commission may take a decision to the effect that the reasons provided are do not justify the refusal to lend in which case the resolution authority of the Member State concerned shall be bound to lend the amount requested.*** In any case they should not be obliged to lend more than half of the funds that the national financing arrangement has available at the moment

when the borrowing request is formalised.

Or. en

Amendment 1560
Diogo Feio

Proposal for a directive
Article 97 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Subject to the first subparagraph, national financing arrangements shall not **be obliged to** lend to another national financing arrangement in those **circumstances** when the resolution authority of the Member State of the financing arrangement considers that it would not have sufficient funds to finance any foreseeable resolution in the near future. In any case they **should not be obliged to** lend more than half of the funds that the national financing arrangement has available at the moment when the borrowing request is formalised.

Amendment

Subject to the first subparagraph, national financing arrangements shall **may** not lend to another national financing arrangement in those **circumstances** when the resolution authority of the Member State of the financing arrangement considers that it would not have sufficient funds to finance any foreseeable resolution in the near future. In any case they **may not** lend more than half of the funds that the national financing arrangement has available at the moment when the borrowing request is formalised, **or if the amount of the loan would result in reducing the national arrangement's funding to a level below the minimum threshold percentage.**

Or. en

Amendment 1561
Marisa Matias, Jürgen Klute

Proposal for a directive
Article 97 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Subject to the first subparagraph, national financing arrangements shall not be obliged to lend to another national financing arrangement **in those circumstances when the resolution**

Amendment

Subject to the first subparagraph, national financing arrangements shall not be obliged to lend to another national financing arrangement more than half of the funds that the national financing

authority of the Member State of the financing arrangement considers that it would not have sufficient funds to finance any foreseeable resolution in the near future. In any case they should not be obliged to lend more than half of the funds that the national financing arrangement has available at the moment when the borrowing request is formalised.

arrangement has available at the moment when the borrowing request is formalised.

Or. en

Amendment 1562
Śławomir Nitras

Proposal for a directive
Article 97 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Subject to the first subparagraph, national financing arrangements shall not **be obliged to** lend to another national financing arrangement in those **circumstances** when the resolution authority of the Member State of the financing arrangement considers that it would not have sufficient funds to finance any foreseeable resolution in the near future. In any case they should **not be obliged to lend** more than half of the funds that the national financing arrangement has available at the moment when the borrowing request is formalised.

Amendment

Subject to the first subparagraph, national financing arrangements shall not lend to another national financing arrangement in those **circumstances** when the resolution authority of the Member State of the financing arrangement considers that it would not have sufficient funds to finance any foreseeable resolution in the near future. In any case they should **lend no** more than half of the funds that the national financing arrangement has available at the moment when the borrowing request is formalised.

Or. en

Justification

Borrowing between national financial arrangements can only be allowed if on a voluntary basis, since it endangers the capacity of the entity that provides support. In a systemic crisis such mutual arrangements might lead to contagion and leave a lending entity without sufficient funds for resolution in its own jurisdiction and no possibility to borrow from others. As for mutualisation of arrangements, the group financing plan should be jointly decided

between all resolution authorities of institutions in the group. Absent a joint decision, each authority shall make its own decision.

Amendment 1563

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a directive

Article 97 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. For the purpose of paragraph 1 Member States shall require National resolution funds to obtain for a special purpose banking licence in accordance with Directive [CRD] 2006/48/EC.

Or. en

Amendment 1564

Peter Simon

Proposal for a directive

Article 97 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. 1. The following conditions must be satisfied in the event of voluntary lending:

(a) the borrowing financing arrangement shall not, pursuant to this Article, repay loans at this time to other financing arrangements;

(b) the borrowing financing arrangement shall inform the relevant authorities and the European Banking Authority (EBA) of the amount requested;

(c) the borrowing financing arrangement shall repay the loan at the latest after five years, including by way of annual instalments, interest being due only at the time of repayment;

(d) the interest rate set shall be at least equivalent to the marginal lending facility rate of the European Central Bank during the credit period;

(e) the borrowing financing arrangement shall inform the EBA of the initial interest rate and of the duration of the loan.

2. The EBA shall confirm that the requirements referred to in paragraphs 1 and 2 have been met.

Member States shall ensure that the contributions levied by the borrowing financing arrangement are sufficient to reimburse the amount borrowed and to re-establish the target level as soon as possible.

Financing arrangements which must repay a loan to other financing arrangements pursuant to this Article shall not provide loans to other financing arrangements.

Or. de

Justification

The principles and conditions for borrowing should be set out in the Directive, as they are in Parliament's position on the recast of the Deposit Guarantee Schemes Directive of 16.02.2012 (and in the Commission proposal).

Amendment 1565 **Werner Langen**

Proposal for a directive **Article 97 – paragraph 3**

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 103 in order to specify the conditions that have to be met in order for a financing arrangement to be able to borrow from other financing

deleted

arrangements as well as the conditions applicable to the borrowing and in particular the criteria for the assessment of whether there will be sufficient funds for financing a foreseeable resolution in the near future, the repayment period and the interest rate applicable.

Or. de

Amendment 1566
Peter Simon

Proposal for a directive
Article 97 – paragraph 3

Text proposed by the Commission

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 103 in order to specify the conditions that have to be met in order for a financing arrangement to be able to borrow from other financing arrangements *as well as the conditions applicable to the borrowing and in particular the criteria for the assessment of whether there will be sufficient funds for financing a foreseeable resolution in the near future, the repayment period and the interest rate applicable.*

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 103 in order to specify the **additional** conditions that have to be met in order for a financing arrangement to be able to borrow from other financing arrangements.

Or. de

Justification

The principles and conditions for borrowing should be set out in the Directive, as they are in Parliament's position on the recast of the Deposit Guarantee Schemes Directive of 16.02.2012 (and in the Commission proposal).

Amendment 1567
Wolf Klinz

Proposal for a directive
Article 98

Text proposed by the Commission

Amendment

Article 98

deleted

Or. en

Amendment 1568
Vicky Ford

Proposal for a directive
Article 98

Text proposed by the Commission

Amendment

Article 98

deleted

Or. en

Amendment 1569
Vicky Ford

Proposal for a directive
Article 98 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that, in the case of a group resolution as established in Article 83, each national financial arrangement of each of the institutions that are part of a group contributes to the financing of the group resolution in accordance with this Article.

deleted

Or. en

Amendment 1570
Vicky Ford

Proposal for a directive
Article 98 – paragraph 2

Text proposed by the Commission

Amendment

2. For the purposes of paragraph 1, the group level resolution authority, in consultation to the resolution authorities of the institutions that are part of the group, shall establish, if necessary before taking any resolution action, a financing plan determining the total financial needs for the financing of the group resolution as well as the modalities for that financing.

deleted

Or. en

Amendment 1571
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive
Article 98 – paragraph 2

Text proposed by the Commission

Amendment

2. For the purposes of paragraph 1, the group level resolution authority, in consultation to the resolution authorities of the institutions that are part of the group, shall establish, **if necessary** before taking any resolution action, a financing plan determining the total financial needs for the financing of the group resolution as well as the modalities for that financing.

2. For the purposes of paragraph 1, the group level resolution authority, in consultation to the resolution authorities of the institutions that are part of the group, shall establish, before taking any resolution action, a financing plan determining the total financial needs for the financing of the group resolution as well as the modalities for that financing.

Or. en

Amendment 1572
Olle Schmidt

Proposal for a directive
Article 98 – paragraph 2

Text proposed by the Commission

2. For the purposes of paragraph 1, the group level resolution authority, in consultation to the resolution authorities of the institutions that are part of the group, shall establish, if necessary before taking any resolution action, a financing plan **determining** the total financial needs for the financing of the group resolution as well as the modalities for that financing.

Amendment

2. For the purposes of paragraph 1, the group level resolution authority, in consultation to the resolution authorities of the institutions that are part of the group, shall establish, if necessary before taking any resolution action, a financing plan **estimating** the total financial needs for the financing of the group resolution as well as the modalities for that financing.

Or. en

Justification

It is sufficient that financing needs are 'estimated' since it will be difficult to determine funding needs at an early stage.

Amendment 1573
Slawomir Nitras

Proposal for a directive
Article 98 – paragraph 2

Text proposed by the Commission

2. For the **purposes** of paragraph 1, **the group level resolution authority, in consultation to** the resolution authorities of the institutions that are part of the group, shall **establish, if necessary before taking any resolution action,** a financing plan determining the total financial needs for the financing of the group resolution as well as the modalities for that financing.

Amendment

2. For the **purpose** of paragraph 1, **if necessary before taking any resolution action,** the resolution authorities of the institutions that are part of the group shall **endeavour to reach a joint decision on establishment of** a financing plan determining the total financial needs for the financing of the group resolution as well as the modalities for that financing. **In the absence of a joint decision between resolution authorities, each resolution authority shall make its own decision on the application of the financing plan on the entity in its jurisdiction.**

Or. en

Amendment 1574
Ildikó Gáll-Pelcz

Proposal for a directive
Article 98 – paragraph 2

Text proposed by the Commission

2. For the purposes of paragraph 1, the group level resolution authority, in consultation to the resolution authorities of the institutions that are part of the group, shall establish, *if necessary* before taking any resolution action, a financing plan determining the total financial needs for the financing of the group resolution as well as the modalities for that financing.

Amendment

2. For the purposes of paragraph 1, the group level resolution authority, in consultation to the resolution authorities of the institutions that are part of the group, shall establish, before taking any resolution action, a financing plan ***based on general principles of mutualisation as set out in point (e) of Article 11 (2)*** determining the total financial needs for the financing of the group resolution as well as the modalities for that financing. ***The financing plan shall be proportionate, taking into account in particular the cost of resolution measures on entities of the group with respect to the total cost of the resolution action for the group as a whole.***

Or. en

Amendment 1575
Vicky Ford

Proposal for a directive
Article 98 – paragraph 3

Text proposed by the Commission

3. The modalities referred to in paragraph 2 may include:

(a) contributions from the national financing arrangements of the institutions that are part of the group,

(b) borrowings or other forms of support from financial institutions or the Central

Amendment

deleted

Bank.

The financing plan shall be part of the group resolution scheme as specified in Article 83. The financing plan shall establish the contribution from each national financing arrangement.

Or. en

Amendment 1576

Vicky Ford

Proposal for a directive

Article 98 – paragraph 3 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) contributions from the national financing arrangements of the institutions that are part of the group, **deleted**

Or. en

Amendment 1577

Vicky Ford

Proposal for a directive

Article 98 – paragraph 3 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) borrowings or other forms of support from financial institutions or the Central Bank. **deleted**

Or. en

Amendment 1578

Vicky Ford

Proposal for a directive

Article 98 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

The financing plan shall be part of the group resolution scheme as specified in Article 83. The financing plan shall establish the contribution from each national financing arrangement.

deleted

Or. en

Amendment 1579
Olle Schmidt

Proposal for a directive
Article 98 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

The financing plan shall be part of the group resolution scheme as specified in Article 83. The financing plan ***shall*** establish the contribution from each national financing arrangement.

The financing plan shall be part of the group resolution scheme as specified in Article 83. The financing plan ***may*** establish the contribution from each national financing arrangement.

Or. en

Justification

Determination of the contribution of the respective national funding should be done voluntarily, and that the rule should not be mandatory.

Amendment 1580
Ślawomir Nitras

Proposal for a directive
Article 98 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

The financing plan shall be part of the group resolution scheme as specified in Article 83. The financing plan shall establish the contribution from each

The financing plan shall be part of the group resolution scheme as specified in Article 83. The financing plan shall establish the contribution from each

national financing arrangement.

national financing arrangement *of the institutions that are part of the group.*

Or. en

Amendment 1581
Vicky Ford

Proposal for a directive
Article 98 – paragraph 4

Text proposed by the Commission

Amendment

4. Provided that the requirements under paragraph 2 of this article and Article 83 are fulfilled, Member States shall establish rules and procedures to ensure that each national financing arrangement under their jurisdiction effects its contribution to the financing plan immediately after their resolution authorities receive a request from the group level resolution authority.

deleted

Or. en

Amendment 1582
Olle Schmidt

Proposal for a directive
Article 98 – paragraph 4

Text proposed by the Commission

Amendment

4. Provided that the requirements under paragraph 2 of this article and Article 83 are fulfilled, Member States ***shall*** establish rules and procedures to ensure that each national financing arrangement under their jurisdiction effects its contribution to the financing plan ***immediately after their resolution authorities receive a request from the group level resolution authority.***

4. Provided that the requirements under paragraph 2 of this article and Article 83 are fulfilled, Member States ***may*** establish rules and procedures to ensure that each national financing arrangement under their jurisdiction effects its contribution to the financing plan.

Justification

Funding should be able to contribute to resolution measures, however, it should not be exercised immediately with binding effect, according to Article 98.4.

Amendment 1583
Olle Schmidt

Proposal for a directive
Article 98 – paragraph 5

Text proposed by the Commission

Amendment

5. For the purpose of this Article, Member States shall ensure that the group financing arrangements are allowed, under the conditions laid down in article 96, to contract borrowings or other forms of support, from financial institutions, the Central Bank or other third parties, for the total amount needed to finance the resolution of the group in accordance with the financing plan referred to in paragraph 2 of this Article. **deleted**

Justification

Loans and assistance should not be imposed at a group level. Opportunity for loans and support at national level exist under Article 96.

Amendment 1584
Vicky Ford

Proposal for a directive
Article 98 – paragraph 5

Text proposed by the Commission

Amendment

5. For the purpose of this Article, Member States shall ensure that the group financing arrangements are allowed, under the conditions laid down in article 96, to contract borrowings or other forms of support, from financial institutions, the Central Bank or other third parties, for the total amount needed to finance the resolution of the group in accordance with the financing plan referred to in paragraph 2 of this Article. **deleted**

States shall ensure that the group financing arrangements are allowed, under the conditions laid down in article 96, to contract borrowings or other forms of support, from financial institutions, the Central Bank or other third parties, for the total amount needed to finance the resolution of the group in accordance with the financing plan referred to in paragraph 2 of this Article.

Or. en

Amendment 1585
Vicky Ford

Proposal for a directive
Article 98 – paragraph 6

Text proposed by the Commission

Amendment

6. Member States shall ensure that each national financing arrangement under its jurisdiction guarantees any borrowing contracted by the group financing arrangement in accordance with paragraph 4. The guarantee by each national financing arrangement shall not exceed the part of its participation to the financing plan established in accordance to paragraph 2.

deleted

Or. en

Amendment 1586
Elisa Ferreira

Proposal for a directive
Article 98 – paragraph 6

Text proposed by the Commission

Amendment

6. Member States shall ensure that each national financing arrangement under its

6. Member States shall ensure that each national financing arrangement under its

jurisdiction guarantees any borrowing contracted by the group financing arrangement in accordance with **paragraph 4**. The guarantee by each national financing arrangement shall not exceed the part of its participation to the financing plan established in accordance to **paragraph 2**.

jurisdiction guarantees any borrowing contracted by the group financing arrangement in accordance with **paragraph 5**. The guarantee by each national financing arrangement shall not exceed the part of its participation to the financing plan established in accordance to **paragraph 3**.

Or. en

Amendment 1587

Vicky Ford

Proposal for a directive Article 98 – paragraph 7

Text proposed by the Commission

7. Member States shall ensure that any proceeds or benefits that arise from the use of the financing arrangements shall benefit all national financing arrangements in accordance to their contribution to the financing of the resolution as established in paragraph 2.

Amendment

deleted

Or. en

Amendment 1588

Olle Schmidt

Proposal for a directive Article 98 – paragraph 7

Text proposed by the Commission

7. Member States shall ensure that any proceeds or benefits that arise from the use of the financing arrangements shall benefit all national financing arrangements in accordance to their contribution to the financing of the resolution as established in paragraph 2.

Amendment

7. Member States shall ensure that any proceeds or benefits, **net of resolution costs**, that arise from the use of the financing arrangements shall benefit all national financing arrangements in accordance to their contribution to the financing of the resolution as established in

paragraph 2.

Or. en

Justification

It should be clarified that is surplus after deducting the development costs that should be returned to the funding facility.

Amendment 1589
Olle Schmidt

Proposal for a directive
Article 98 – paragraph 8

Text proposed by the Commission

Amendment

8. The Commission shall be empowered to adopt delegated acts in accordance with Article 103 in order to specify further: *deleted*

(a) the form and content of the financing plan specified in paragraph 2;

(b) the modalities for the disbursement of the contributions to the financing plan referred to in paragraph 3;

(c) the modalities of the guarantees referred to in paragraph 5;

(d) the criteria for determining when all resolution actions have finalised;

Or. en

Justification

Article 98.8 refers to a fundamental part of the Directive, and may for that reason, in accordance with Article 290 TFEU, not be delegated to the Commission. Moreover, the rules on financing arrangement can have implications on state budgetary issues, and for that reason should not be delegated to the Commission.

Amendment 1590
Vicky Ford

**Proposal for a directive
Article 98 – paragraph 8**

Text proposed by the Commission

Amendment

**8. The Commission shall be empowered to
adopt delegated acts in accordance with
Article 103 in order to specify further:** *deleted*

**(a) the form and content of the financing
plan specified in paragraph 2;**

**(b) the modalities for the disbursement of
the contributions to the financing plan
referred to in paragraph 3;**

**(c) the modalities of the guarantees
referred to in paragraph 5;**

**(d) the criteria for determining when all
resolution actions have finalised;**

Or. en

**Amendment 1591
Vicky Ford**

**Proposal for a directive
Article 98 – paragraph 8 – point a**

Text proposed by the Commission

Amendment

**(a) the form and content of the financing
plan specified in paragraph 2;** *deleted*

Or. en

**Amendment 1592
Vicky Ford**

**Proposal for a directive
Article 98 – paragraph 8 – point b**

Text proposed by the Commission

Amendment

(b) the modalities for the disbursement of the contributions to the financing plan referred to in paragraph 3; *deleted*

Or. en

Amendment 1593
Vicky Ford

Proposal for a directive
Article 98 – paragraph 8 – point c

Text proposed by the Commission

Amendment

(c) the modalities of the guarantees referred to in paragraph 5; *deleted*

Or. en

Amendment 1594
Vicky Ford

Proposal for a directive
Article 98 – paragraph 8 – point d

Text proposed by the Commission

Amendment

(d) the criteria for determining when all resolution actions have finalised; *deleted*

Or. en

Amendment 1595
Elisa Ferreira

Proposal for a directive
Article 98 a (new)

Text proposed by the Commission

Amendment

Article 98 a

European Resolution Fund

Member States shall design their financial arrangements envisaging their possible future merge, partial or total, into a European Resolution Fund.

Or. en

Amendment 1596

Elisa Ferreira

Proposal for a directive

Article 99

Text proposed by the Commission

Amendment

Article 99

deleted

Or. en

Amendment 1597

Marisa Matias, Jürgen Klute

Proposal for a directive

Article 99

Text proposed by the Commission

Amendment

Article 99

deleted

Or. en

Amendment 1598

Sari Essayah

Proposal for a directive

Article 99 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that, where the resolution authorities take resolution action, and provided that this action ensures that depositors continue having access to their deposits, the deposit guarantee scheme to which the institution is affiliated is liable, up to the amount of covered deposits, for the amount of losses that it would have had to bear if the institution had been wound up under normal insolvency proceedings.

Amendment

1. Member States shall ensure that, where the resolution authorities take resolution action, and provided that this action ensures that depositors continue having access to their deposits, the deposit guarantee scheme to which the institution is affiliated is liable, up to the amount of covered deposits, for the amount of losses ***covered deposits would have had to bear if they had not been excluded from the bail-in tool, however not exceeding the amount of losses*** that it would have had to bear if the institution had been wound up under normal insolvency proceedings.

Or. en

Justification

It should be clear that the liability of the DGS should be limited to the amount that covered deposits would have had to bear if they had not been excluded from the bail-in tool. Otherwise it will be impossible to reliably quantify, in a timely manner, the amount payable by the DGS.

Amendment 1599

Vicky Ford

**Proposal for a directive
Article 99 – paragraph 1**

Text proposed by the Commission

1. Member States shall ensure that, where the resolution authorities take resolution action, and provided that this action ensures that depositors continue having access to their deposits, the deposit guarantee scheme to which the institution is affiliated is liable, up to the amount of covered deposits, for the amount of losses that it would have had to bear if the institution had been wound up under

Amendment

1. Member States shall ensure that, where the resolution authorities take resolution action, and provided that this action ensures that depositors continue having access to their deposits, the deposit guarantee scheme to which the institution is affiliated is liable, up to the amount of covered deposits, for the amount of losses ***covered deposits would have had to bear if they had not been excluded from the bail-***

normal insolvency proceedings.

in tool, however not exceeding the amount that it would have had to bear if the institution had been wound up under normal insolvency proceedings.

Or. en

Amendment 1600
Pablo Zalba Bidegain

Proposal for a directive
Article 99 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that, where the resolution authorities take resolution action, and provided that this action ensures that depositors continue having access to their deposits, the deposit guarantee scheme to which the institution is affiliated is liable, up to the amount of covered deposits, for the amount of losses that it would have had to bear if the institution had been wound up under normal insolvency proceedings.

Amendment

1. Member States shall ensure that, where the resolution authorities take resolution action, and provided that this action ensures that depositors continue having access to their deposits, the deposit guarantee scheme to which the institution is affiliated is liable, up to the amount of covered deposits, for the amount of losses that it would have had to bear if the institution had been wound up under normal insolvency proceedings ***and for the purpose of recapitalization through the exercise of conversion powers by resolution authorities for the amount that covered deposits would have had to bear if they had not been excluded from the bail-in tool.***

Or. en

Amendment 1601
Peter Simon

Proposal for a directive
Article 99 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that, where

Amendment

1. Member States shall ensure that, where

the resolution authorities take resolution action, and provided that this action ensures that depositors continue having access to their deposits, the deposit guarantee scheme to which the institution is affiliated *is liable*, up to the amount of covered deposits, *for* the amount of losses that it would have had to bear if the institution had been wound up under normal insolvency proceedings.

the resolution authorities take resolution action, and provided that this action ensures that depositors continue having access to their deposits, the deposit guarantee scheme to which the institution is affiliated *can be drawn on*, up to the amount of covered deposits, *to cover* the amount of losses that it would have had to bear if the institution had been wound up under normal insolvency proceedings.

Or. de

Amendment 1602

Philippe Lamberts

on behalf of the Verts/ALE Group

Proposal for a directive

Article 99 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that, where the resolution authorities take resolution action, and provided that this action ensures that depositors continue having access to their deposits, the deposit guarantee scheme to which the institution is affiliated is liable, up to the amount of covered deposits, for the amount of losses that it would have had to bear if the institution had been wound up under normal insolvency proceedings.

Amendment

1. Member States shall ensure that, where the resolution authorities take resolution action, and provided that this action ensures that depositors continue having access to their deposits, the deposit guarantee scheme to which the institution is affiliated is liable, up to the amount of covered deposits, for the amount of losses that it would have had to bear if the institution had been wound up under normal insolvency proceedings *in accordance with article 13.4.*

Or. en

Amendment 1603

Nils Torvalds

Proposal for a directive

Article 99 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that, where the resolution authorities take resolution action, and provided that this action ensures that depositors continue having access to their deposits, the deposit guarantee scheme to which the institution is affiliated is liable, up to the amount of covered deposits, for the amount of losses **that** it would have had to bear if the institution had been wound up under normal insolvency proceedings.

Amendment

1. Member States shall ensure that, where the resolution authorities take resolution action, and provided that this action ensures that depositors continue having access to their deposits, the deposit guarantee scheme to which the institution is affiliated is liable, up to the amount of covered deposits, for the amount of losses **covered deposits would have had to bear if they had not been excluded from the bail-in tool, however not exceeding the amount of losses that** it would have had to bear if the institution had been wound up under normal insolvency proceedings.

Or. en

Amendment 1604
Sharon Bowles

Proposal for a directive
Article 99 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that, under the national law governing normal insolvency proceedings, the deposit guarantee schemes rank pari passu with unsecured non-preferred claims.

Amendment

deleted

Or. en

Justification

Depositors should get preferential treatment.

Amendment 1605
Pablo Zalba Bidegain

Proposal for a directive
Article 99 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that, under the national law governing normal insolvency proceedings, the deposit guarantee schemes rank pari passu with unsecured non- preferred claims.

Amendment

2. Member States shall ensure that, under the national law governing normal insolvency proceedings **and Article 43 of this Directive**, the deposit guarantee schemes rank pari passu with unsecured non- preferred claims.

Or. en

Amendment 1606
Peter Simon

Proposal for a directive
Article 99 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that, under the national law governing normal insolvency proceedings, **the deposit guarantee schemes rank pari passu with** unsecured non- preferred claims.

Amendment

2. Member States shall ensure that, under the national law governing normal insolvency proceedings, **eligible deposits shall be serviced as a priority over** unsecured non- preferred claims.

Or. de

Justification

Eligible deposits merit special protection and should therefore receive priority treatment in normal insolvency proceedings and resolution measures.

Amendment 1607
Vicky Ford

Proposal for a directive
Article 99 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that, under

Amendment

2. Member States shall ensure that, under

the national law governing normal insolvency proceedings, the deposit guarantee schemes rank *pari passu* with unsecured non- preferred claims.

the national law governing normal insolvency proceedings, the deposit guarantee schemes rank ***at least*** *pari passu* with unsecured non- preferred claims.

Or. en

Amendment 1608
Corien Wortmann-Kool

Proposal for a directive
Article 99 – paragraph 2

Text proposed by the Commission

2. Member States ***shall ensure that, under the national law governing normal insolvency proceedings, the deposit guarantee schemes rank pari passu with unsecured non- preferred claims.***

Amendment

2. ***Unless*** Member States ***decide otherwise, the depositor*** guarantee schemes ***shall rank senior to*** unsecured non- preferred claims ***under national law governing insolvency proceedings.***

Or. en

Amendment 1609
Sari Essayah

Proposal for a directive
Article 99 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that the determination of the amount by which the deposit guarantee scheme is liable in accordance with paragraph 1 of this Article complies with the conditions established in Article 30 (2).

Amendment

3. Member States shall ensure that the determination of the amount by which the deposit guarantee scheme is liable in accordance with paragraph 1 of this Article complies with the conditions established in Article 30 (2) ***and Article 29 (1)(f).***

Or. en

Justification

Any contribution to resolution by the DGS must be capped to the net amount of the losses it

would have incurred in a pay-out to depositors, i.e. the cost of the pay-out less the expected recoveries which would have been achieved in an insolvency following from the “No Creditor Worse Off” principle in Article 29 (1)(f). Due to this principle, a DGS should not be subject to a double cost in the event the institution is unsuccessfully resolved leading to insolvency and triggering a payout.

Amendment 1610

Peter Simon

Proposal for a directive Article 99 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that the determination of the amount by which the deposit guarantee scheme *is liable* in accordance with paragraph 1 of this Article complies with the conditions established in Article 30 (2).

Amendment

3. Member States shall ensure that the determination of the amount by which the deposit guarantee scheme *can be drawn on* in accordance with paragraph 1 of this Article complies with the conditions established in Article 30 (2).

Or. de

Amendment 1611

Nils Torvalds

Proposal for a directive Article 99 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that the determination of the amount by which the deposit guarantee scheme is liable in accordance with paragraph 1 of this Article complies with the conditions established in Article 30 (2).

Amendment

3. Member States shall ensure that the determination of the amount by which the deposit guarantee scheme is liable in accordance with paragraph 1 of this Article complies with the conditions established in Article 30 (2) *and Article 29 (1)(f)*.

Or. en

Amendment 1612

Sari Essayah

Proposal for a directive
Article 99 – paragraph 4

Text proposed by the Commission

4. The contribution from the deposit guarantee scheme for the purpose of paragraph 1 ***shall be made in cash.***

Amendment

4. The contribution from the deposit guarantee scheme for the purpose of paragraph 1 ***may include (without limitation) cash, loan, guarantee or other security.***

Or. en

Justification

Requiring the DGS to always make its contribution in cash and for members of the scheme to be invoiced immediately may lead to contagion during a systemic crisis. Furthermore, it is not fair to require of a DGS to, at all times, to alone provide a non-repayable cash contribution, whilst other parties involved in resolution may obtain e.g. an equity stake in return for their contribution. The technique to be applied must therefore be appropriate and proportionate considering the case at hand.

Amendment 1613
Mario Mauro, Alfredo Pallone

Proposal for a directive
Article 99 – paragraph 4

Text proposed by the Commission

4. The contribution from the deposit guarantee scheme for the purpose of paragraph 1 shall be ***made in cash.***

Amendment

4. The contribution from the deposit guarantee scheme for the purpose of paragraph 1 shall be ***proportionate to the situation and the need to maintain stability of the financial system.***

Or. en

Amendment 1614
Nils Torvalds, Olle Schmidt

Proposal for a directive
Article 99 – paragraph 4

Text proposed by the Commission

4. The contribution from the deposit guarantee scheme for the purpose of paragraph 1 *shall be made in cash*.

Amendment

4. The contribution from the deposit guarantee scheme for the purpose of paragraph 1 *may include (without limitation) cash, loan, guarantee or other security*.

Or. en

Amendment 1615
Wolf Klinz

Proposal for a directive
Article 99 – paragraph 5

Text proposed by the Commission

5. Member States may also provide that the available financial means of deposit guarantee schemes established in their territory may be used for the purposes of Article 92(1), provided that the deposit guarantee schemes comply, where applicable, with the provisions laid down in Articles 93 to 98.

Amendment

deleted

Or. en

Amendment 1616
Burkhard Balz, Werner Langen

Proposal for a directive
Article 99 – paragraph 5

Text proposed by the Commission

5. Member States may also provide that the available financial means of deposit guarantee schemes established in their territory may be used for the purposes of

Amendment

deleted

Article 92(1), provided that the deposit guarantee schemes comply, where applicable, with the provisions laid down in Articles 93 to 98.

Or. en

Amendment 1617

Mario Mauro, Alfredo Pallone

Proposal for a directive

Article 99 – paragraph 5

Text proposed by the Commission

5. Member States **may also** provide that the available financial means of deposit guarantee schemes established in their territory may be used for the purposes of Article 92(1), provided that the deposit guarantee schemes comply, where applicable, with the provisions laid down in Articles 93 to 98.

Amendment

5. Member States provide that the available financial means of deposit guarantee schemes established in their territory may be used for the purposes of Article 92(1), provided that the deposit guarantee schemes comply, where applicable, with the provisions laid down in Articles 93 to 98.

Or. en

Amendment 1618

Burkhard Balz, Werner Langen

Proposal for a directive

Article 99 – paragraph 6

Text proposed by the Commission

6. Member States shall ensure that the deposit guarantee scheme has arrangements in place to ensure that, following a contribution made by the deposit guarantee scheme under paragraphs 1 or 5 and where the depositors of the institution under resolution need to be reimbursed, the members of the scheme can immediately provide the scheme with the amounts that

Amendment

deleted

have to be paid.

Or. en

Amendment 1619

Sari Essayah

Proposal for a directive Article 99 – paragraph 6

Text proposed by the Commission

6. Member States shall ensure that ***the deposit guarantee scheme has arrangements*** in place to ensure that, following a contribution made by the deposit guarantee scheme under ***paragraphs 1 or 5*** and where the depositors of the institution under resolution need to be reimbursed, the ***members of the scheme can immediately provide the scheme with the amounts that have to be paid.***

Amendment

6. Member States shall ensure that ***arrangements are*** in place to ensure that, following a contribution made by the deposit guarantee scheme under ***paragraph 1*** and where the depositors of the institution under resolution need to be reimbursed, the ***deposit guarantee scheme will be refunded for its contribution without delay.***

Or. en

Justification

Due to the principle of No Creditor Worse Off, a DGS should not be subject to a double cost in the event the institution is unsuccessfully resolved leading to insolvency and triggering a payout. If the DGS nonetheless has to reimburse the depositors after it has contributed to resolution under art 99 (1), the DGS contribution to resolution must be paid back to the DGS. Should the DGS require an immediate ex-post contribution from its members it might lead to contagion during a systemic crisis.

Amendment 1620

Wolf Klinz

Proposal for a directive Article 99 – paragraph 6

Text proposed by the Commission

6. Member States shall ensure that the deposit guarantee scheme has arrangements in place to ensure that, following a contribution made by the deposit guarantee scheme under **paragraphs 1 or 5** and where the depositors of the institution under resolution need to be reimbursed, the members of the scheme can immediately provide the scheme with the amounts that have to be paid.

Amendment

6. Member States shall ensure that the deposit guarantee scheme has arrangements in place to ensure that, following a contribution made by the deposit guarantee scheme under **paragraph 1** and where the depositors of the institution under resolution need to be reimbursed, the members of the scheme can immediately provide the scheme with the amounts that have to be paid.

Or. en

Amendment 1621

Peter Simon

Proposal for a directive

Article 99 – paragraph 6

Text proposed by the Commission

6. Member States shall ensure that the deposit guarantee scheme has arrangements in place to ensure that, following a contribution made by the deposit guarantee scheme under **paragraphs 1 or 5** and where the depositors of the institution under resolution need to be reimbursed, the members of the scheme can immediately provide the scheme with the amounts that have to be paid.

Amendment

6. Member States shall ensure that the deposit guarantee scheme has arrangements in place to ensure that, following a contribution made by the deposit guarantee scheme under **paragraph 1** and where the depositors of the institution under resolution need to be reimbursed, the members of the scheme can immediately provide the scheme with the amounts that have to be paid.

Or. de

Amendment 1622

Nils Torvalds, Olle Schmidt

Proposal for a directive

Article 99 – paragraph 6

Text proposed by the Commission

6. Member States shall ensure that ***the deposit guarantee scheme has arrangements*** in place to ensure that, following a contribution made by the deposit guarantee scheme under ***paragraphs 1 or 5*** and where the depositors of the institution under resolution need to be reimbursed, the ***members of the scheme can immediately provide the scheme with the amounts that have to be paid.***

Amendment

6. Member States shall ensure that ***arrangements are*** in place to ensure that, following a contribution made by the deposit guarantee scheme under ***paragraph 1*** and where the depositors of the institution under resolution need to be reimbursed, the ***deposit guarantee scheme will be refunded for its contribution without delay.***

Or. en

Amendment 1623

Wolf Klinz

**Proposal for a directive
Article 99 – paragraph 7**

Text proposed by the Commission

7. Where Member States avail themselves of the option provided for under paragraph 5 of this Article, the deposit guarantee schemes shall be considered as financing arrangements for the purpose of Article 91. In that case Member States may abstain from establishing separate funding arrangements.

Amendment

deleted

Or. en

Amendment 1624

Burkhard Balz, Werner Langen

**Proposal for a directive
Article 99 – paragraph 7**

Text proposed by the Commission

Amendment

7. Where Member States avail themselves of the option provided for under paragraph 5 of this Article, the deposit guarantee schemes shall be considered as financing arrangements for the purpose of Article 91. In that case Member States may abstain from establishing separate funding arrangements. *deleted*

Or. en

Amendment 1625

Mario Mauro, Alfredo Pallone

**Proposal for a directive
Article 99 – paragraph 7**

Text proposed by the Commission

Amendment

7. Where Member States avail themselves of the option provided for under paragraph 5 of this Article, the deposit guarantee schemes shall be considered as financing arrangements for the purpose of Article 91. In that case Member States may abstain from establishing separate funding arrangements. *deleted*

Or. en

Amendment 1626

Peter Simon

**Proposal for a directive
Article 99 – paragraph 7**

Text proposed by the Commission

Amendment

7. Where Member States avail themselves of the option provided for under paragraph 5 of this Article, the deposit *deleted*

guarantee schemes shall be considered as financing arrangements for the purpose of Article 91. In that case Member States may abstain from establishing separate funding arrangements.

Or. de

Justification

According to a Commission impact assessment, the establishment of a 1% fund and a comprehensive 'bail-in' instrument at a time of extreme crisis nonetheless requires recourse to Member States' budgetary resources, and this might involve up to 3% of a Member State's GDP. Establishing a 1.5% resolution fund in addition to a 1.5% deposit guarantee fund would give a total of 3%, which is around half the cost of recapitalisation required in the present crisis.

Amendment 1627

Peter Simon

Proposal for a directive

Article 99 – paragraph 8

Text proposed by the Commission

Amendment

8. Where a Member State avails itself of the option provided for in paragraph 5, the following priority rule shall apply to the use of available financial means of the deposit guarantee scheme.

deleted

If the deposit guarantee scheme is, at the same time, requested to use its available financial means for the purposes specified in Article 92 or for the purpose of the first paragraph of this Article, and for the repayment of depositors under Directive 94/19/EC, and the available financial means are insufficient to satisfy all these requests, priority shall be given to the repayment of depositors under Directive 94/19/EC and to the actions specified under paragraph 1 of this Article, over the payments for the purposes provided for in Article 92 of this Directive.

Amendment 1628

Wolf Klinz

Proposal for a directive

Article 99 – paragraph 8 – subparagraph 1

Text proposed by the Commission

Amendment

Where a Member State avails itself of the option provided for in paragraph 5, the following priority rule shall apply to the use of available financial means of the deposit guarantee scheme. *deleted*

Amendment 1629

Burkhard Balz, Werner Langen

Proposal for a directive

Article 99 – paragraph 8 – subparagraph 1

Text proposed by the Commission

Amendment

Where a Member State avails itself of the option provided for in paragraph 5, the following priority rule shall apply to the use of available financial means of the deposit guarantee scheme. *deleted*

Amendment 1630

Mario Mauro, Alfredo Pallone

Proposal for a directive

Article 99 – paragraph 8 – subparagraph 1

Text proposed by the Commission

Amendment

Where a Member State avails itself of the the following priority rule shall apply to

option provided for in paragraph 5, the following priority rule shall apply to the use of available financial means of the deposit guarantee scheme.

the use of available financial means of the deposit guarantee scheme.

Or. en

Amendment 1631

Wolf Klinz

Proposal for a directive

Article 99 – paragraph 8 – subparagraph 2

Text proposed by the Commission

If the deposit guarantee scheme is, at the same time, requested to use its available financial means for the *purposes specified in Article 92 or for the purpose of the first paragraph of this Article*, and for the repayment of depositors under Directive 94/19/EC, and the available financial means are insufficient to satisfy all these requests, priority shall be given to the repayment of depositors under Directive 94/19/EC and to the actions specified under paragraph 1 of this Article, over the payments for the purposes provided for *in Article 92 of this Directive*.

Amendment

If the deposit guarantee scheme is, at the same time, requested to use its available financial means for the *resolution purposes* and for the repayment of depositors under Directive 94/19/EC, and the available financial means are insufficient to satisfy all these requests, priority shall be given to the repayment of depositors under Directive 94/19/EC and to the actions specified under paragraph 1 of this Article, over the payments for the *resolution* purposes provided for this Directive.

Or. en

Amendment 1632

Burkhard Balz, Werner Langen

Proposal for a directive

Article 99 – paragraph 8 – subparagraph 2

Text proposed by the Commission

If the deposit guarantee scheme is, at the same time, requested to use its available financial means for the purposes specified in Article 92 or for the purpose of the first

Amendment

If the deposit guarantee scheme is, at the same time, requested to use its available financial means for the purposes specified in Article 92 or for the purpose of the first

paragraph of this Article, and for the repayment of depositors under Directive 94/19/EC, and the available financial means are insufficient to satisfy all these requests, priority shall be given to the repayment of depositors under Directive 94/19/EC and to the actions specified under paragraph 1 of this Article, over the payments for the purposes provided for in Article 92 of this Directive.

paragraph of this Article, and for the repayment of depositors **and early interventions** under Directive 94/19/EC, and the available financial means are insufficient to satisfy all these requests, priority shall be given to the repayment of depositors **and early interventions** under Directive 94/19/EC and to the actions specified under paragraph 1 of this Article, over the payments for the purposes provided for in Article 92 of this Directive.

Or. en

Amendment 1633
Burkhard Balz, Werner Langen

Proposal for a directive
Article 99 – paragraph 9

Text proposed by the Commission

Amendment

9. Where eligible deposits with an institution under resolution are transferred to another entity through the sale of business tool or the bridge institution tool, the depositors have no claim under Directive 94/19/EC against the deposit guarantee scheme in relation to any part of their deposits with the institution under resolution that are not transferred, provided that the amount of funds transferred is equal to or more than the aggregate coverage level laid down in Article 7 of Directive 94/19/EC.

deleted

Or. en

Amendment 1634
Elisa Ferreira

Proposal for a directive
Article 99 a (new)

Text proposed by the Commission

Amendment

Article 99 a

Prohibition of the use of deposit guarantee schemes in the context of resolution

Member States shall ensure that deposit guarantee schemes are not used to finance any resolution action.

Or. en

Amendment 1635

Gianni Pittella

Proposal for a directive

Article 100 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. EBA shall periodically report to the Commission whether there are unjustified divergences regarding the implementation at national level of that requirement referred to in paragraph 1.

Or. en

Amendment 1636

Elisa Ferreira

Proposal for a directive

Article 100 – paragraph 3

Text proposed by the Commission

Amendment

3. Resolution authorities and competent authorities shall be given all investigatory powers that are necessary for the exercise of their functions. In the exercise of their sanctioning powers, resolution authorities and competent authorities shall cooperate

3. The competence to exercise the sanctioning powers foreseen in this Directive shall be attributed to resolution authorities or to competent authorities, depending on the breach. Resolution authorities and competent authorities shall

closely to ensure that sanctions or measures produce the desired results and coordinate their action when dealing with cross border cases.

be given all investigatory powers that are necessary for the exercise of their functions. In the exercise of their sanctioning powers, resolution authorities and competent authorities shall cooperate closely to ensure that sanctions or measures produce the desired results and coordinate their action when dealing with cross border cases.

Or. en

Amendment 1637
Elisa Ferreira

Proposal for a directive
Article 101 – paragraph 1 – point b

Text proposed by the Commission

(b) an entity fails to notify an intention to provide group financial support to its competent authorities in breach of **Article 22**;

Amendment

(b) an entity fails to notify an intention to provide group financial support to its competent authorities in breach of **Article 21**;

Or. en

Amendment 1638
Elisa Ferreira

Proposal for a directive
Article 101 – paragraph 1 – point d

Text proposed by the Commission

(d) the management of an institution fails to notify the competent authority when the institution is failing or likely to fail in breach of **Article 73(1)**.

Amendment

(d) the management of an institution fails to notify the competent authority when the institution is failing or likely to fail in breach of **Article 74(1)**.

Or. en

Amendment 1639
Wolf Klinz

Proposal for a directive
Article 101 – paragraph 2 – point c

Text proposed by the Commission

Amendment

*(c) in case of a legal person,
administrative pecuniary sanctions of up
to 10 % of the total annual turnover of
that legal person in the preceding
business year; where the legal person is a
subsidiary of a parent undertaking, the
relevant total annual turnover shall be the
total annual turnover resulting from the
consolidated account of the ultimate
parent undertaking in the preceding
business year;*

deleted

Or. en

Amendment 1640
Wolf Klinz

Proposal for a directive
Article 101 – paragraph 2 – point d

Text proposed by the Commission

Amendment

*(d) in case of a natural person,
administrative pecuniary sanctions of up
to EUR 5 000 000, or in the Member
States where the Euro is not the official
currency, the corresponding value in the
national currency on the date of entry into
force of this Directive;*

deleted

Or. en

Amendment 1641
Wolf Klinz

Proposal for a directive
Article 103 – paragraph 3

Text proposed by the Commission

3. The delegation of powers referred to in Articles 2, 4, 28, 37, 39, 43, 86, **94, 97 and 98** may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment

3. The delegation of powers referred to in Articles 2, 4, 28, 37, 39, 43 **and** 86 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Or. en

Amendment 1642
Elisa Ferreira

Proposal for a directive
Article 103 – paragraph 3

Text proposed by the Commission

3. The delegation of powers referred to in **Articles** 2, 4, **28, 37, 39, 43**, 86, 94, 97 and 98 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment

3. The delegation of powers referred to in **Articles** 2, 4, **36, 39, 42, 45, 50, 62, 68**, 86, 94, 97 and 98 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Or. en

Amendment 1643
Wolf Klinz

Proposal for a directive
Article 103 – paragraph 5

Text proposed by the Commission

5. A delegated act adopted pursuant to **Articles 2, 4, 28, 37, 39, 43, 86, 94, 97 and 98** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Amendment

5. A delegated act adopted pursuant to **Articles 2, 4, 28, 37, 39, 43 and 86** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Or. en

Amendment 1644
Elisa Ferreira

Proposal for a directive
Article 103 – paragraph 5

Text proposed by the Commission

5. A delegated act adopted pursuant to **Articles 2, 4, 28, 37, 39, 43, 86, 94, 97 and 98** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or

Amendment

5. A delegated act adopted pursuant to **Articles 2, 4, 36, 39, 42, 45, 50, 62, 68, 86, 94, 97 and 98** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the

the Council.

European Parliament or the Council.

Or. en

Amendment 1645

Sharon Bowles

Proposal for a directive

Article 103 – paragraph 5

Text proposed by the Commission

5. A delegated act adopted pursuant to Articles 2, 4, 28, 37, 39, 43, 86, 94, 97 and 98 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of **two** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by **two** months at the initiative of the European Parliament or the Council.

Amendment

5. A delegated act adopted pursuant to Articles 2, 4, 28, 37, 39, 43, 86, 94, 97 and 98 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of **three** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by **three** months at the initiative of the European Parliament or the Council.

Or. en

Amendment 1646

Sharon Bowles

Proposal for a directive

Article 103 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. The commission shall not adopt delegated acts where the scrutiny time of the parliament is reduced through recess to less than five months including the extension.

Or. en

Amendment 1647
Sharon Bowles

Proposal for a directive
Article 103 a (new)

Text proposed by the Commission

Amendment

Article 103 a

Further provisions for draft regulatory technical standards

- 1. Notwithstanding any time limit provided for the submission of draft regulatory technical standards to the Commission, phasing of submissions shall be agreed covering buckets due at 12, 18 and 24 months.**
- 2. The Commission shall not adopt regulatory technical standards in a manner that through recess reduces the scrutiny time of the Parliament to less than 2 months including the extension.**

Or. en

Amendment 1648
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive
Article 113 – paragraph 1

Text proposed by the Commission

Amendment

EBA shall create a permanent internal committee pursuant to Article 41 of Regulation (EU) No 1093/2010 for the purpose of preparing the EBA decisions provided for in this Directive. That internal committee shall be **at least** composed of the resolution authorities referred to in Article 3 of this Directive.

EBA shall create a permanent internal committee pursuant to Article 41 of Regulation (EU) No 1093/2010 for the purpose of preparing the EBA decisions **and draft regulatory technical standards and draft implementing technical standards** provided for in this Directive. That internal committee shall be composed of the resolution authorities referred to in

Article 3 of this Directive.

Or. en

Amendment 1649
Vicky Ford

Proposal for a directive
Article 113 – paragraph 1

Text proposed by the Commission

EBA shall create a permanent internal committee pursuant to Article 41 of Regulation (EU) No 1093/2010 for the purpose of preparing the EBA decisions provided for in this Directive. That internal committee shall be at least composed of the resolution authorities referred to in Article 3 of this Directive.

Amendment

EBA shall create a permanent internal committee pursuant to Article 41 of Regulation (EU) No 1093/2010 for the purpose of preparing the EBA decisions provided for in this Directive, ***which must conform to the framework established by Regulation N° 1093/2010, in particular in accordance with Article 38.1 of that Regulation, the EBA shall ensure that no decision impinges in any way on the fiscal responsibilities of Member States.*** That internal committee shall be at least composed of the resolution authorities referred to in Article 3 of this Directive.

Or. en

Amendment 1650
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive
Article 113 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

For the purpose of this directive EBA shall ensure a full effective organisational separation between the resolution committee and other functions referred to in Regulation No 1093/2010. The resolution committee shall promote the

development and coordination of recovery and resolution plans, develop methods for the resolution of failing financial institutions and an assessment of the need for appropriate financing instruments, in accordance with Articles 21 to 26. Any other decisions, tasks as well as the adoption of draft regulatory technical standards and draft implementing technical standards referred to in this directive shall be delegated to the resolution committee in accordance with article 41 of Regulation No 1093/2010.

Or. en

Justification

This amendment is aligned with the position of ECON adopted with respect to the amendment of the EBA regulation in the context of the SSM

Amendment 1651
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive
Article 113 a (new)

Text proposed by the Commission

Amendment

Article 113 a

Cooperation with EBA

Cooperation with EBA

The competent authorities shall cooperate with the EBA for the purposes of this Directive in accordance with Regulation (EU) No 1093/2010.

The competent authorities shall, without delay, provide EBA with all the information necessary to carry out its duties in accordance with Regulation (EU) No 1093/2010.

Amendment 1652
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive
Article 113 b (new)

Text proposed by the Commission

Amendment

Article 113 b

Staff and resources of EBA

By ..., EBA shall assess the staffing and resources needs arising from the assumption of its powers and duties in accordance with this Directive and submit a report to the European Parliament, the Council and the Commission.

Or. en

Amendment 1653
Sylvie Goulard

Proposal for a directive
Article 114 – paragraph -1a (new)

Text proposed by the Commission

Amendment

-1. By 1 January 2015 to the latest, the Commission shall review the procedures for resolving credit institutions and assess the need in particular to set up an Single Resolution Authority matching the Single Supervisory Mechanism.

Or. en

Amendment 1654
Sylvie Goulard

Proposal for a directive
Article 114 – paragraph 1 – point -a (new)

Text proposed by the Commission

Amendment

***(-a) the necessity to set up an autonomous
EU resolution authority;***

Or. en

Amendment 1655
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive
Article 114 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

***(b a) regarding the appropriateness of
imposing limits to the amount of liabilities
as defined in Article 2 (62) of this
Directive that can be held by other
financial institutions;***

Or. en

Amendment 1656
Elisa Ferreira

Proposal for a directive
Article 114 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

***By 31 December 2013, the Commission
shall put forward a proposal for the
creation of a European Resolution
Authority and of a European Resolution
Fund.***

Or. en

Amendment 1657
Sharon Bowles

Proposal for a directive
Article 114 a (new)

Text proposed by the Commission

Amendment

Article 114 a

EBA review

In line with the review of Article 81 of Regulation (EU) No. 1093/2010 required by 2nd January 2014 and in view of the variations that may be applied by competent authorities in supervisory procedures, the EBA shall in addition to monitoring where specifically referenced in this Directive establish benchmarking portfolios and techniques to enable assessment of convergence of supervisory practices.

Or. en

Amendment 1658
Elisa Ferreira

Proposal for a directive
Article 115 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Institutions shall submit their recovery plans to competent authorities and resolution authorities shall draw up resolution plans, according to Articles 6(1) and 9(1), in six months from the date of the entry into force of the regulatory technical standards referred in Articles 4a, 13(3) and 14(8).

Or. en

Amendment 1659
Sharon Bowles

Proposal for a directive
Article 115 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Member States shall ensure that all institutions implement the appropriate recovery and resolution plans at least two years after entry into force of this directive.

Institutions which have not done so shall be required to hold additional CET1 capital of 5%.

Or. en

Justification

It is important that resolution authorities and institutions put recovery and resolution plans in place effectively and swiftly following entry into force of this directive. Where they are not in place the institution poses more of a risk that the taxpayer will have to intervene, therefore additional capital requirements would help ensure the institution has greater protection while work continues to implement the necessary requirement for a recovery or resolution plan.

Amendment 1660
Elisa Ferreira

Proposal for a directive
Article 115 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

Member States shall adopt and publish by 31 December 2014 at the latest the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Member States shall adopt and publish by 31 December 2014 at the latest the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions ***and a correlation table between those provisions and this Directive.***

Amendment 1661
Alfredo Pallone

Proposal for a directive
Article 115 – paragraph 1 – subparagraph 2

Text proposed by the Commission

They shall forthwith communicate to the Commission the text of those provisions.

Amendment

They shall forthwith communicate to the Commission the text of those provisions.
Member States shall apply those provisions from 1 January 2015.

Amendment 1662
Wolf Klinz

Proposal for a directive
Article 115 – paragraph 1 – subparagraph 3

Text proposed by the Commission

However, Member States shall apply provisions adopted in order to comply with Section 5 of Chapter III of Title IV from 1 January 2018 at the latest.

Amendment

deleted

Amendment 1663
Diogo Feio

Proposal for a directive
Annex 1 – section 1 – paragraph 1 – point 2

Text proposed by the Commission

(2) a summary of the material changes to the institution since the most recently filed

Amendment

(2) a summary of the material changes to the institution since the most recently filed

recovery plan;

recovery plan. ***EBA shall develop draft regulatory technical standards specifying the meaning of of "material changes". EBA shall submit those draft regulatory standards to the Commission within twelve months from the date of entry into force of this Directive;***

Or. en

Amendment 1664
Pablo Zalba Bidegain

Proposal for a directive
Annex 1 – section 1 – paragraph 1 – point 3

Text proposed by the Commission

(3) a communication and disclosure plan outlining how the firm intends to manage any potentially negative market reactions;

Amendment

(3) a communication and ***and EBA-harmonized*** disclosure plan outlining how the firm intends to manage any potentially negative market reactions;

Or. en

Amendment 1665
Diogo Feio

Proposal for a directive
Annex 1 – section 1 – paragraph 1 – point 6

Text proposed by the Commission

(6) a detailed description of any material impediment to the effective and timely execution of the plan, including consideration of impact on the rest of the group, customers and counterparties;

Amendment

(6) a detailed description of any material impediment to the effective and timely execution of the plan, including consideration of impact on the rest of the group, customers and counterparties. ***EBA shall develop draft regulatory technical standards specifying the meaning of of "material changes". EBA shall submit those draft regulatory standards to the Commission within twelve months from the date of entry into force of this***

Directive;

Or. en

Amendment 1666
Pablo Zalba Bidegain

Proposal for a directive
Annex 1 – section 1 – paragraph 1 – point 7

Text proposed by the Commission

Amendment

(7) identification of critical functions;

deleted

Or. en

Amendment 1667
Pablo Zalba Bidegain

Proposal for a directive
Annex 1 – section 1 – paragraph 1 – point 8

Text proposed by the Commission

Amendment

(8) a detailed description of the processes for determining the value and marketability of the *core business lines, operations and assets of the institution*;

(8) a detailed description of the processes for determining the *effectiveness and viability* value and marketability of the *range of potential measures included in the recovery plan*;

Or. en

Amendment 1668
Corien Wortmann-Kool

Proposal for a directive
Annex 1 – section 1 – paragraph 1 – point 8

Text proposed by the Commission

Amendment

(8) a detailed description of the processes for determining the value and marketability

(8) a detailed description of the processes for determining the value and marketability

of the core business lines, operations and assets of the institution;

of the core business lines, operations and assets of the institution *and the effectiveness and viability of other potential measures included in the recovery plan;*

Or. en

Amendment 1669
Olle Ludvigsson

Proposal for a directive
Annex 1 – section 1 – paragraph 1 – point 9 a (new)

Text proposed by the Commission

Amendment

(9 a) a general assessment of the effects that the implementation of the plan would have on the employees of the institution;

Or. en

Amendment 1670
Philippe Lamberts
on behalf of the Verts/ALE Group

Proposal for a directive
Annex 1 – section 1 – paragraph 1 – point 9 a (new)

Text proposed by the Commission

Amendment

(9 a) the aggregate amount of capital instruments issued by the institution that are subject to write-down or conversion to Common Equity Tier 1 instruments upon the occurrence of a market-based trigger before the institution reaches the point of non-viability.

Or. en

Amendment 1671
Olle Ludvigsson

Proposal for a directive
Annex 1 – section 1 – paragraph 1 – point 9 b (new)

Text proposed by the Commission

Amendment

(9 b) a description of the procedures to be used for informing and consulting with employees and their representatives throughout the recovery phase;

Or. en

Amendment 1672
Pablo Zalba Bidegain

Proposal for a directive
Annex 1 – section 1 – paragraph 1 – point 15

Text proposed by the Commission

Amendment

(15) arrangements and measures necessary to maintain continuous access to financial markets infrastructures;

deleted

Or. en

Amendment 1673
Sharon Bowles

Proposal for a directive
Annex 1 – section 1 – paragraph 1 – point 15

Text proposed by the Commission

Amendment

(15) arrangements and measures necessary to maintain continuous access to financial markets infrastructures;

(15) arrangements and measures necessary to maintain continuous access to financial markets infrastructures, and where it is possible, portability of clients positions;

Or. en

Amendment 1674
Pablo Zalba Bidegain

Proposal for a directive
Annex 1 – section 1 – paragraph 1 – point 16

Text proposed by the Commission

Amendment

(16) arrangements and measures necessary to maintain the continuous functioning of the institution's operational processes, including infrastructure and IT services;

deleted

Or. en

Amendment 1675
Pablo Zalba Bidegain

Proposal for a directive
Annex 1 – section 1 – paragraph 1 – point 19 a (new)

Text proposed by the Commission

Amendment

(19 a) EBA shall develop draft regulatory technical standards specifying the meaning of the terms "material changes" referred to in paragraph 2, and of "material impediment" referred to in paragraph 6.

EBA shall submit those draft regulatory technical standards to the Commission within twelve months from the date of entry into force of this Directive.

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

Or. en

Amendment 1676
Olle Ludvigsson

Proposal for a directive
Annex 1 – section 2 – paragraph 1 – point 17 a (new)

Text proposed by the Commission

Amendment

(17 a) a description of the arrangements that the institution has in place for informing and consulting with employees and their representatives, including, where applicable, collective agreements in force;

Or. en

Amendment 1677
Pablo Zalba Bidegain

Proposal for a directive
Annex 1 – section 2 – paragraph 1 – point 20

Text proposed by the Commission

Amendment

(20) A description of possible liquidity sources for supporting resolution; ***deleted***

Or. en

Amendment 1678
Pablo Zalba Bidegain

Proposal for a directive
Annex 1 – section 2 – paragraph 1 – point 21

Text proposed by the Commission

Amendment

(21) Information on asset encumbrance, liquid assets, off-balance sheet activities, hedging strategies and booking practices. ***deleted***

Amendment 1679
Olle Ludvigsson

Proposal for a directive
Annex 1 – section 3 – paragraph 1 – point 3 a (new)

Text proposed by the Commission

Amendment

(3 a) The extent to which there are adequate arrangements in place for informing and consulting with employees and their representatives throughout a resolution process;

Or. en

Amendment 1680
Pablo Zalba Bidegain

Proposal for a directive
Annex 1 – section 3 – paragraph 1 – point 10

Text proposed by the Commission

Amendment

(10) The extent to which the institution or the group has tested its management information systems under stress scenarios defined by the resolution authority.

(10) The extent to which the institution or the group has tested its management information systems under stress scenarios defined by the resolution authority. ***EBA shall develop draft regulatory technical standards on stress scenarios. EBA shall submit those regulatory technical standards to the Commission within twelve months from the date of entry into force of this Directive. Power is delegated to the Commission to adopt the draft regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1093/2010.***

Or. en

Amendment 1681
Diogo Feio

Proposal for a directive
Annex 1 – section 3 – paragraph 1 – point 10

Text proposed by the Commission

(10) The extent to which the institution or the group has tested its management information systems under stress scenarios defined by the resolution authority.

Amendment

(10) The extent to which the institution or the group has tested its management information systems under stress scenarios defined by the resolution authority. ***EBA shall develop draft regulatory technical standards on stress scenarios. EBA shall submit those regulatory technical standards to the Commission within twelve months from the date of entry into force of this Directive. Power is delegated to the Commission to adopt the draft regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 10 to 14 of Regulation (EU) No 1093/2010.***

Or. en

Amendment 1682
Pablo Zalba Bidegain

Proposal for a directive
Annex 1 – section 3 – paragraph 1 – point 19

Text proposed by the Commission

(19) The existence and robustness of service level agreements.

Amendment

deleted

Or. en

Amendment 1683
Pablo Zalba Bidegain

Proposal for a directive
Annex 1 – section 3 – paragraph 1 – point 20

Text proposed by the Commission

Amendment

(20) Whether third country authorities have the resolution tools necessary to support resolution actions by Union resolution authorities, and the scope for co-ordinated action between Union and third country authorities.

deleted

Or. en

Amendment 1684
Pablo Zalba Bidegain

Proposal for a directive
Annex 1 – section 3 – paragraph 1 – point 23

Text proposed by the Commission

Amendment

(23) The arrangements and means through which resolution could be facilitated in the cases of groups that have ***subsidiaries*** established in different jurisdictions.

(23) The arrangements and means through which resolution could be facilitated in the cases of groups that have ***entities*** established in different jurisdictions.

Or. en