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AMENDMENTS
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Draft report
Jonás Fernández
(PE752.913v01-00)

Amending Directive 2014/59/EU and Regulation (EU) No 806/2014 as regards certain aspects of the minimum requirement for own funds and eligible liabilities

Proposal for a directive
(COM(2023)0229 – C9-0134/2023 – 2023/0113(COD))

Amendment 20
Johan Van Overtveldt

Proposal for a directive
Recital 1

Text proposed by the Commission	*Amendment*
(1) Directive (EU) 2019/879 of the European Parliament and of the Council[16] and Regulation (EU) 2019/877 of the European Parliament and of the Council[17] amended the minimum requirement for own funds and eligible liabilities ('MREL') set out in Directive 2014/59/EU of the European Parliament and of the Council[18] and in Regulation (EU) No 806/2014 of the European Parliament and of the Council[19] , which applies to credit institutions and investment firms (institutions) established in the Union as well as to any other entity that falls under the scope of Directive 2014/59/EU or Regulation (EU) No 806/2014 (entities). Those amendments provided that internal MREL, that is, MREL applicable to institutions and entities that are subsidiaries of resolution entities but are not themselves resolution entities, may be met by those entities using instruments issued to and bought by the resolution entity either directly or indirectly through other entities in the same resolution group.	(1) Directive (EU) 2019/879 of the European Parliament and of the Council[16] and Regulation (EU) 2019/877 of the European Parliament and of the Council[17] amended the minimum requirement for own funds and eligible liabilities ('MREL') set out in Directive 2014/59/EU of the European Parliament and of the Council[18] and in Regulation (EU) No 806/2014 of the European Parliament and of the Council[19] , which applies to credit institutions and investment firms (institutions) established in the Union as well as to any other entity that falls under the scope of Directive 2014/59/EU or Regulation (EU) No 806/2014 (entities). Those amendments provided that internal MREL, that is, MREL applicable to institutions and entities that are subsidiaries of resolution entities but are not themselves resolution entities, may be met by those ***institutions and*** entities using instruments issued to and bought by the resolution entity either directly or indirectly through other entities in the same resolution group.
[16] Directive (EU) 2019/879 of the European Parliament and of the Council of 20 May 2019 amending Directive 2014/59/EU as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms and Directive 98/26/EC (OJ L 150, 7.6.2019, p. 296).	[16] Directive (EU) 2019/879 of the European Parliament and of the Council of 20 May 2019 amending Directive 2014/59/EU as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms and Directive 98/26/EC (OJ L 150, 7.6.2019, p. 296).
[17] Regulation (EU) 2019/877 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 806/2014 as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms (OJ L	[17] Regulation (EU) 2019/877 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 806/2014 as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms (OJ L

150, 7.6.2019, p. 226).

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

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

150, 7.6.2019, p. 226).

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

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

Or. en

Justification

More accurate drafting.

Amendment 21
Johan Van Overtveldt

Proposal for a directive
Recital 3

Text proposed by the Commission	*Amendment*
(3) The review of the Commission found that it would be appropriate and proportionate to the objectives pursued by the internal MREL rules to allow resolution authorities to set the internal MREL on a consolidated basis for a range of entities that is wider than the range	(3) The review of the Commission found that it would be appropriate and proportionate to the objectives pursued by the internal MREL rules to allow resolution authorities to set the internal MREL on a consolidated basis for a range of entities that is wider than the range

resulting from the application of Directive 2014/59/EU and Regulation (EU) No 806/2014, where such wider range covers institutions and entities that are not resolution entities themselves, but that are subsidiaries of resolution entities and control themselves subsidiaries ***subject to MREL*** (‘intermediate entities’). That would be in particular the case for those banking groups that are headed by a holding company. In such cases, the intermediate entities naturally centralise intragroup exposures and channel the internal MREL eligible resources pre-positioned by the resolution entity. Due to that structure, such intermediate entities ***would*** be disproportionately affected by the deduction rules. The ***Commission also concluded that the*** MREL framework would be more proportionate ***by the removal of the issuances*** of liquidation entities ***from the scope of the exposures that an intermediate*** entity is ***required to deduct pursuant to the deduction mechanism for the indirect subscription of internal MREL eligible resources. A liquidation entity will not have to be supported by the resolution entity in case of failure, thus removing the need to safeguard any loss and capital transfer mechanisms within resolution groups, which was the purpose of the deduction rules introduced by Regulation (EU) 2022/2036. By contrast, the remaining entities of the resolution group will need to be supported by the resolution entity in case of distress or failure***. The necessary MREL resources should ***therefore*** be present at all levels of the resolution group and their availability for loss absorption and recapitalisation should be ensured through the deduction mechanism. ***Thus, the review of the Commission concluded that intermediate entities should continue to deduct the full amount of their holdings of internal MREL eligible resources issued by other non-liquidation entities in the same resolution group.***

resulting from the application of Directive 2014/59/EU and Regulation (EU) No 806/2014, where such wider range covers institutions and entities that are not resolution entities themselves, but that are subsidiaries of resolution entities and control themselves ***other*** subsidiaries (‘intermediate entities’) ***within the same resolution group***. That would be in particular the case for those banking groups that are headed by a holding company. In such cases, the intermediate entities naturally centralise intragroup exposures and channel the internal MREL eligible resources pre-positioned by the resolution entity. Due to that structure, such intermediate entities ***could*** be disproportionately affected by the deduction rules. The MREL framework would be more proportionate ***to only apply the deduction rules to the own funds*** of liquidation entities ***if the issuing*** entity is ***not subject to an MREL decision***. The necessary MREL resources should be present at all levels of the resolution group and their availability for loss absorption and recapitalisation should be ensured through the deduction mechanism.

Or. en

Justification

Drafting aligned with the amendment suggested on the corresponding Article. The partly deletion is justified by the fact that the resolution plan only establishes a presumptive path from which resolution authorities may deviate. It is therefore not correct to claim that "liquidation entity will not have to be supported by the resolution entity in case of failure". There may be cases where a liquidation entity receives the support of its parent undertaking even if it is identified as a liquidation entity. This support can also be granted gradually, already in a pre-resolution phase.

Amendment 22
Othmar Karas

Proposal for a directive
Recital 5

Text proposed by the Commission	*Amendment*
(5) To ensure that the possibility to comply with MREL on a consolidated basis is available ***only*** in the relevant cases identified in the review of the Commission and does not lead to a shortage of internal MREL eligible resources across the resolution group, the ***power*** to set the internal MREL on a consolidated basis for intermediate entities ***should be a discretionary power of the resolution authority and should be subject to*** certain conditions. The intermediate entity should be the only direct subsidiary, that is an institution or an entity, of a resolution entity which is a parent Union parent financial holding company or a Union parent mixed financial holding company, is established in the same Member State and is part of the same resolution group. Alternatively, the intermediate entity concerned should comply with the additional own funds requirement ***or with the combined buffer requirement*** on the basis of its consolidated situation. In both cases, however, compliance with the internal MREL on a consolidated basis should not, in the assessment of the	(5) To ensure that the possibility to comply with MREL on a consolidated basis is available in the relevant cases identified in the review of the Commission and does not lead to a shortage of internal MREL eligible resources across the resolution group, the ***resolution authority should allow*** to set the internal MREL on a consolidated basis for intermediate entities ***if*** certain conditions ***are met, unless this would impair financial stability or risk potential contagion to the financial system in the Union***. The intermediate entity should be the only direct subsidiary, that is an institution or an entity, of a resolution entity which is a parent Union parent financial holding company or a Union parent mixed financial holding company, is established in the same Member State and is part of the same resolution group. Alternatively, the intermediate entity concerned should comply with the additional own funds requirement on the basis of its consolidated ***or individual*** situation. In both cases, however, compliance with the internal MREL on a consolidated basis should not, in the

resolution authority, negatively affect in a significant way the resolvability of the resolution group concerned, nor the application by the resolution authority of the power to write down or convert relevant capital instruments and eligible liabilities of the intermediate entity concerned or of other entities in its resolution group.

assessment of the resolution authority, negatively affect in a significant ***and material*** way the resolvability of the resolution group concerned, nor the application by the resolution authority of the power to write down or convert relevant capital instruments and eligible liabilities of the intermediate entity concerned or of other entities in its resolution group.

Or. en

Amendment 23
Johan Van Overtveldt

Proposal for a directive
Recital 5

Text proposed by the Commission	*Amendment*
(5) To ensure that the possibility to comply with MREL on a consolidated basis is available only in the relevant cases identified in the review of the Commission and does not lead to a shortage of internal MREL eligible resources across the resolution group, the power to set the internal MREL on a consolidated basis for intermediate entities should be a discretionary power of the resolution authority and should be subject to certain conditions. The intermediate entity should be ***the only*** direct subsidiary, that is an institution ***or an entity,*** of a resolution entity which is a parent Union parent financial holding company or a Union parent mixed financial holding company, is established in the same Member State and is part of the same resolution group. Alternatively, the intermediate entity concerned should comply with the additional own funds requirement or with the combined buffer requirement on the basis of its consolidated situation. In both cases, however, compliance with the internal MREL on a consolidated basis	(5) To ensure that the possibility to comply with MREL on a consolidated basis is available only in the relevant cases identified in the review of the Commission and does not lead to a shortage of internal MREL eligible resources across the resolution group, the power to set the internal MREL on a consolidated basis for intermediate entities should be a discretionary power of the resolution authority and should be subject to certain conditions. The intermediate entity should be ***a*** direct subsidiary, that is an institution of a resolution entity which is a parent Union parent financial holding company or a Union parent mixed financial holding company, is established in the same Member State and is part of the same resolution group. Alternatively, the intermediate entity concerned should comply with the additional own funds requirement or with the combined buffer requirement on the basis of its consolidated situation. In both cases, however, compliance with the internal MREL on a consolidated basis ***only*** should not, in the

should not, in the assessment of the resolution authority, negatively affect in a significant way the resolvability of the resolution group concerned, nor the application by the resolution authority of the power to write down or convert relevant capital instruments and eligible liabilities of the intermediate entity concerned or of other entities in its resolution group.

assessment of the resolution authority, negatively affect in a significant way the resolvability of the resolution group concerned, nor the application by the resolution authority of the power to write down or convert relevant capital instruments and eligible liabilities of the intermediate entity concerned or of other entities in its resolution group. ***One situation where the disapplication of internal MREL on an individual basis would be detrimental to the resolvability of the resolution group is where that amount of MREL would not allow to ensure compliance with the individual own funds requirements applicable after the exercise of the write-down and conversion powers.***

Or. en

Justification

The rationale behind the third condition proposed in Article 45f–paragraph 1–subparagraph 3a–point (a)–point (i) is unclear. There may be cases where the intermediate entity (a credit institution consolidating a banking group) has a sister company (e.g. an investment firm) with different activities. It is not clear why the level of intra-resolution exposures would decrease in such a case. In addition, there is no similar condition under point (ii) applying to OpCos. Finally, the last sentence aims at clarifying the condition in Article 45f–paragraph 1–subparagraph 3a–point (b).

Amendment 24
Johan Van Overtveldt

Proposal for a directive
Recital 6

Text proposed by the Commission	*Amendment*
(6) Pursuant to Article 45f(2) of Directive 2014/59/EU and Article 12g(2) of Regulation (EU) No 806/2014, intermediate entities may comply with the consolidated internal MREL using own funds and eligible liabilities. To fully deliver on the possibility to comply with MREL on a consolidated basis, it is	(6) Pursuant to Article 45f(2) of Directive 2014/59/EU and Article 12g(2) of Regulation (EU) No 806/2014, intermediate entities may comply with the consolidated internal MREL using own funds and eligible liabilities. To fully deliver on the possibility to comply with MREL on a consolidated basis, it is

necessary to ensure that the eligible liabilities of intermediate entities are computed in a way that is similar to the computation of own funds. The eligibility criteria for eligible liabilities that may be used to comply with internal MREL on a consolidated basis should therefore be aligned with the rules on the calculation of consolidated own funds laid down in Regulation (EU) No 575/2013. To ensure consistency with the existing rules on the external MREL, that alignment should also reflect the existing rules laid down in Article 45b(3) of Directive 2014/59/EU and Article 12d(3) of Regulation (EU) No 806/2014 for the calculation of eligible liabilities that resolution entities may use to comply with their consolidated MREL. In particular, it is necessary to ensure that eligible liabilities issued by the subsidiaries of the entity subject to consolidated internal MREL and held by other entities of the same resolution group but outside the scope of consolidation***, including the resolution entity,*** or by existing shareholders not belonging to the same resolution group, count towards the own funds and eligible liabilities of the entity subject to consolidated internal MREL.	necessary to ensure that the eligible liabilities of intermediate entities are computed in a way that is similar to the computation of own funds. The eligibility criteria for eligible liabilities that may be used to comply with internal MREL on a consolidated basis should therefore be aligned with the rules on the calculation of consolidated own funds laid down in Regulation (EU) No 575/2013. To ensure consistency with the existing rules on the external MREL, that alignment should also reflect the existing rules laid down in Article 45b(3) of Directive 2014/59/EU and Article 12d(3) of Regulation (EU) No 806/2014 for the calculation of eligible liabilities that resolution entities may use to comply with their consolidated MREL. In particular, it is necessary to ensure that eligible liabilities issued by the subsidiaries of the entity subject to consolidated internal MREL and held by ***the resolution entity, either directly or indirectly through*** other entities of the same resolution group but outside the scope of consolidation or by existing shareholders not belonging to the same resolution group, count towards the own funds and eligible liabilities of the entity subject to consolidated internal MREL.

Or. en

Justification

Clarification.

Amendment 25
Johan Van Overtveldt

Proposal for a directive
Recital 7

Text proposed by the Commission	*Amendment*
(7) For liquidation entities, the ***MREL is normally limited*** to the amount	(7) For liquidation entities, the ***resolution authority should assess***

necessary for loss absorption, which corresponds to the own funds requirements. In such cases, the MREL does not entail for the liquidation entity any additional requirement directly related to the resolution framework. That means that a liquidation entity can fully comply with the MREL by complying with the own funds requirements and that a dedicated decision of the resolution authority determining the MREL does not contribute in a meaningful way to the resolvability of liquidation entities. Such a decision entails many procedural obligations for resolution authorities and for the liquidation entities without a corresponding benefit in terms of improved resolvability. For that reason, resolution authorities should not set a MREL for liquidation entities.	***whether it is justified to limit the MREL*** to the amount necessary for loss absorption, which corresponds to the own funds requirements. In such cases, the MREL does not entail for the liquidation entity any additional requirement directly related to the resolution framework. That means that a liquidation entity can fully comply with the MREL by complying with the own funds requirements and that a dedicated decision of the resolution authority determining the MREL does not contribute in a meaningful way to the resolvability of liquidation entities. Such a decision entails many procedural obligations for resolution authorities and for the liquidation entities without a corresponding benefit in terms of improved resolvability. For that reason, resolution authorities should not set a MREL for liquidation entities.

Or. en

Justification

Clarification. The wording proposed by the Commission defines a norm ("is normally limited to") while actually, it is up to resolution authorities to determine whether limiting the MREL for liquidation entities is justified (see current wording of Article 45c.2, second sub-paragraph BRRD : "Where the resolution plan provides that the entity is to be wound up under normal insolvency proceedings or other equivalent national procedures, the resolution authority shall assess whether it is justified to limit the requirement … "). The wording is further adjusted to fit with the Article.

Amendment 26
Johan Van Overtveldt

Proposal for a directive
Recital 8

Text proposed by the Commission	*Amendment*
(8) Where the resolution authority considers that an entity that is part of a resolution group qualifies as a liquidation entity, intermediate entities ***should not be required to deduct*** from their internal	(8) Where the resolution authority considers that an entity that is part of a resolution group qualifies as a liquidation entity ***which is not subject to an MREL decision***, ***the*** intermediate entities ***can limit***

MREL capacity their holdings of own funds ***or other liabilities that would meet the conditions for compliance with the internal MREL and that*** are issued by liquidation entities***. In such a case, the liquidation entity is no longer required to comply with the MREL, and therefore there is no indirect subscription of internal MREL eligible resources through the chain formed by the resolution entity, the intermediate entity and the liquidation entity***. In case of failure, the resolution strategy does not envisage that the liquidation entity would be ***supported*** by the resolution entity. That means that the ***upstreaming of losses from*** the liquidation entity ***to*** the resolution entity, via the intermediate entity, would not be expected***, and neither would the downstreaming of capital in the opposite direction***. ***That adjustment to the scope of the holdings to be deducted in the context of the indirect subscription of internal MREL eligible resources would thus not affect the prudential soundness of the framework.***	***the deducting*** from their internal MREL capacity their holdings of own funds ***which*** are issued by ***those*** liquidation entities ***that are not subject to MREL requirements***. In case of failure, the resolution strategy does not envisage that the liquidation entity would be ***recapitalised*** by the resolution entity. That means that the ***downstreaming of new capital to*** the liquidation entity ***from*** the resolution entity, via the intermediate entity, would not be expected.

Or. en

Justification

This amendment is broadly in line with amendment 6 of the Rapporteur. However, it is suggested not to include the words "or it does not envisage the exercise of the write-down and conversion powers with respect to that entity" from that amendment. It is up to the resolution authority to positively determine that an institution is a liquidation entity. With the wording proposed in amendment 6, any entity for which the exercise of the write-down and conversion powers is not (yet) envisaged would be automatically - by default - qualified as liquidation entity.

Amendment 27
Eero Heinäluoma

Proposal for a directive
Recital 8

Text proposed by the Commission	*Amendment*
(8) ***Where the*** resolution ***authority***	(8) ***When preparing*** resolution ***plans***

considers that an entity that is part of a resolution group qualifies as a liquidation entity, intermediate entities should ***not*** be required to deduct from their internal MREL capacity their holdings of own funds ***or other*** liabilities that would meet the conditions for compliance with the internal MREL ***and that are issued by liquidation entities. In such a case, the liquidation entity is no longer required to comply with the MREL, and therefore there is no indirect subscription of internal MREL eligible resources through the chain formed by the resolution entity, the intermediate entity and the liquidation entity***. In case of failure, the resolution strategy does not envisage that the liquidation entity would be ***supported*** by the resolution entity. That means that the upstreaming of losses from the liquidation entity to the resolution entity, via the intermediate entity, would not be expected, and neither would the downstreaming of capital in the opposite direction. That adjustment to the scope of the holdings to be deducted in the context of the indirect subscription of internal MREL eligible resources would thus not affect the prudential soundness of the framework.

and assessing the resolvability of resolution groups, resolution ***authorities are able to consider that a*** group ***entity*** qualifies as a liquidation entity ***as the exercise of the write-down and conversion powers is not envisaged in respect of that entity directly or indirectly, latter being the case where the entity could be, for example, first merged with other entities before applying the write-down and conversion powers to that merged entity. Where that is the case, the group entity might not need to hold own funds and eligible liabilities in excess of its own funds requirements. In those circumstances***, intermediate entities should be required to deduct from their internal MREL capacity their holdings of own funds ***that are issued by liquidation entities which are not subject to a MREL decision. However, they should not be required to deduct*** liabilities that would meet the conditions for compliance with the internal MREL. In case of failure, the resolution strategy does not envisage that the liquidation entity would be ***recapitalised*** by the resolution entity. That means that the upstreaming of losses ***above the existing own funds requirements*** from the liquidation entity to the resolution entity, via the intermediate entity, would not be expected, and neither would the downstreaming of capital in the opposite direction. That adjustment to the scope of the holdings to be deducted in the context of the indirect subscription of internal MREL eligible resources would thus not affect the prudential soundness of the framework.

Or. en

Amendment 28
Gilles Boyer, Erik Poulsen

Proposal for a directive
Recital 8

Text proposed by the Commission	*Amendment*
(8) ***Where the*** resolution ***authority considers that an entity that is part of a*** resolution group qualifies as a liquidation entity, intermediate entities should not be required to deduct from their internal MREL capacity their holdings of own funds or other liabilities that would meet the conditions for compliance with the internal MREL and that are issued by liquidation entities. In ***such a case, the liquidation entity is no longer required to comply with the MREL, and therefore there is no indirect subscription of internal MREL eligible resources through the chain formed by the resolution entity, the intermediate entity and the liquidation entity. In*** case of failure, the resolution strategy does not envisage that the liquidation entity would be ***supported*** by the resolution entity. That means that the upstreaming of losses from the liquidation entity to the resolution entity, via the intermediate entity, would not be expected, and neither would the downstreaming of capital in the opposite direction. That adjustment to the scope of the holdings to be deducted in the context of the indirect subscription of internal MREL eligible resources would thus not affect the prudential soundness of the framework.	(8) ***When preparing*** resolution ***plans and assessing the resolvability of resolution groups,*** resolution ***authorities are able to consider that a*** group ***entity*** qualifies as a liquidation entity ***as the exercise of the write-down and conversion powers is not envisaged in respect of that entity. Where that is the case, the group entity might not need to hold own funds and eligible liabilities in excess of its own funds requirements. In those circumstances***, intermediate entities should not be required to deduct from their internal MREL capacity their holdings of own funds or other liabilities that would meet the conditions for compliance with the internal MREL and that are issued by liquidation entities. In case of failure, the resolution strategy does not envisage that the liquidation entity would be ***recapitalised*** by the resolution entity. That means that the upstreaming of losses ***above the existing own funds requirements*** from the liquidation entity to the resolution entity, via the intermediate entity, would not be expected, and neither would the downstreaming of capital in the opposite direction. That adjustment to the scope of the holdings to be deducted in the context of the indirect subscription of internal MREL eligible resources would thus not affect the prudential soundness of the framework.

Or. en

Justification

A liquidation entity means that there is not going to be write down or conversion. In this case, the risk weighting of the holding by the parent entity is sufficient to cover for the adequate level of possible losses. There is no need to deduct anything from MREL.

Amendment 29
Othmar Karas

Proposal for a directive
Recital 8

Text proposed by the Commission	*Amendment*
(8) Where the resolution authority considers that an entity that is part of a resolution group qualifies as a liquidation entity, intermediate entities should not be required to deduct from their internal MREL capacity their holdings of own funds or other liabilities that would meet the conditions for compliance with the internal MREL and that are issued by liquidation entities. In such a case, the liquidation entity is no longer required to comply with the MREL, and therefore there is no indirect subscription of internal MREL eligible resources through the chain formed by the resolution entity, the intermediate entity and the liquidation entity. In case of failure, the resolution strategy does not envisage that the liquidation entity would be supported by the resolution entity. That means that the upstreaming of losses from the liquidation entity to the resolution entity, via the intermediate entity, would not be expected, and neither would the downstreaming of capital in the opposite direction. That adjustment to the scope of the holdings to be deducted in the context of the indirect subscription of internal MREL eligible resources would thus not affect the prudential soundness of the framework.	(8) Where the resolution authority considers that an entity that is part of a resolution group qualifies as a liquidation entity, intermediate entities should not be required to deduct from their internal MREL capacity their holdings of own funds or other liabilities that would meet the conditions for compliance with the internal MREL and that are issued by liquidation entities. In such a case, the liquidation entity is no longer required to comply with the MREL, and therefore there is no indirect subscription of internal MREL eligible resources through the chain formed by the resolution entity, the intermediate entity and the liquidation entity. In case of failure, the resolution strategy does not envisage that the liquidation entity would be supported by the resolution entity. That means that the upstreaming of losses from the liquidation entity to the resolution entity, via the intermediate entity, would not be expected, and neither would the downstreaming of capital in the opposite direction. That adjustment to the scope of the holdings to be deducted in the context of the indirect subscription of internal MREL eligible resources would thus not affect the prudential soundness of the framework. ***Not requiring intermediate entities, in some cases, to deduct from their internal MREL capacity their holdings of own funds, as opposed to only liabilities that do not qualify as own funds instruments, is a justified proportionate approach, as liquidation entities, in many cases, do not emit any liabilities.***

Or. en

Amendment 30
Johan Van Overtveldt

Proposal for a directive
Recital 9

Text proposed by the Commission	*Amendment*
(9) The main objective of the permission regime for the reduction of eligible liabilities instruments laid down in Articles 77(2) and 78a of Regulation (EU) No 575/2013, which is also applicable to institutions and entities subject to the MREL and to the liabilities issued to comply with MREL, is to enable resolution authorities to monitor the actions that result in a reduction of the stock of eligible liabilities and to prohibit any action that would amount to a reduction beyond a level which resolution authorities deem adequate. Where the resolution authority has not adopted a decision determining the MREL in respect of an institution or entity, that objective is not relevant. Moreover, institutions or entities that are not subject to a decision determining the MREL do not have eligible liabilities on their balance sheet. Institutions or entities for which no decisions determining the MREL have been adopted should therefore not be required to obtain the prior permission of the resolution authority to effect the call, redemption, repayment or repurchase of liabilities that would meet the eligibility requirements for MREL.	(9) The main objective of the permission regime for the reduction of eligible liabilities instruments laid down in Articles 77(2) and 78a of Regulation (EU) No 575/2013, which is also applicable to institutions and entities subject to the MREL and to the liabilities issued to comply with MREL, is to enable resolution authorities to monitor the actions that result in a reduction of the stock of eligible liabilities and to prohibit any action that would amount to a reduction beyond a level which resolution authorities deem adequate. Where the resolution authority has not adopted a decision determining the MREL in respect of an institution or entity, that objective is not relevant. Moreover, institutions or entities that are not subject to a decision determining the MREL do not have eligible liabilities on their balance sheet***, even if some of their liabilities would theoretically meet the criteria for MREL eligibility***. Institutions or entities for which no decisions determining the MREL have been adopted should therefore not be required to obtain the prior permission of the resolution authority to effect the call, redemption, repayment or repurchase of liabilities that would meet the eligibility requirements for MREL.

Or. en

Justification

Clarification.

Amendment 31
Johan Van Overtveldt

Proposal for a directive
Recital 10

Text proposed by the Commission	*Amendment*
(10) There are liquidation entities for which the MREL does exceed the amount of the own funds requirements, in which case resolution authorities should be able to set the MREL. That MREL should be set at an amount exceeding the amount for loss absorption where the resolution authorities ***consider that such*** amount ***is necessary to protect*** financial stability ***or address*** the risk of contagion to the financial system. In those situations, the liquidation entity should comply with the MREL and should not be exempted from the prior permission regime laid down in Articles 77(2) and 78a of Regulation (EU) No 575/2013. Any intermediate entities belonging to the same resolution group as the liquidation entity concerned should continue to be required to deduct from their internal MREL capacity their holdings of internal MREL eligible resources issued by that liquidation entity. In addition, since liquidation proceedings take place at the level of the legal entity, liquidation entities still subject to MREL should comply with the requirement on an individual basis only. ***Lastly, certain eligibility requirements related to the ownership of the liability concerned are not relevant, as there is no need to ensure the transfer of losses and capital from the liquidation entity to a resolution entity, and should therefore not apply.***	(10) There are liquidation entities for which the MREL does exceed the amount of the own funds requirements, in which case resolution authorities should be able to set the MREL. That MREL should be set at an amount exceeding the amount for loss absorption where the resolution authorities ***assess that it would not be justified to limit the requirement to an*** amount ***sufficient to absorb losses. The assessment by the resolution authority should, in particular, evaluate that limit as possible impact on the*** financial stability ***and on*** the risk of contagion to the financial system. In those situations, the liquidation entity should comply with the MREL and should not be exempted from the prior permission regime laid down in Articles 77(2) and 78a of Regulation (EU) No 575/2013. Any intermediate entities belonging to the same resolution group as the liquidation entity concerned should continue to be required to deduct from their internal MREL capacity their holdings of internal MREL eligible resources issued by that liquidation entity. In addition, since liquidation proceedings take place at the level of the legal entity, liquidation entities still subject to MREL should comply with the requirement on an individual basis only.

Or. en

Justification

It is suggested to go back to the original wording of the BRRD2, which allows resolution authorities to increase the MREL of entities which are liquidation entities above the loss absorbing amount. The wording proposed by the Rapporteur in his amendment 8 limits this capacity as it reverses the burden of proof. In BRRD2, the resolution authority should assess whether it is justified to limit the MREL2. Amendment 8 proposed by the Rapporteur instead

states that the resolution authority should assess whether it is justified to increase the MREL.

Amendment 32
Gilles Boyer, Erik Poulsen

Proposal for a directive
Recital 10

Text proposed by the Commission	*Amendment*
(10) There are liquidation entities for which the ***MREL does exceed the amount of the own funds requirements, in which case*** resolution authorities ***should be able to set the MREL.*** That MREL should ***be set at an amount exceeding*** the amount for loss absorption where the resolution authorities consider that such amount is necessary to protect financial stability or address the risk of contagion to the financial system. In those situations, the liquidation entity should comply with the MREL and should not be exempted from the prior permission regime laid down in Articles 77(2) and 78a of Regulation (EU) No 575/2013. Any intermediate entities belonging to the same resolution group as the liquidation entity concerned should continue to be required to deduct from their internal MREL capacity their holdings of internal MREL eligible resources issued by that liquidation entity. In addition, since liquidation proceedings take place at the level of the legal entity, liquidation entities still subject to MREL should comply with the requirement on an individual basis only. Lastly, certain eligibility requirements related to the ownership of the liability concerned are not relevant, as there ***is*** no need to ***ensure the transfer of losses and capital from the liquidation entity to a*** resolution entity, and should therefore not apply.	(10) There are liquidation entities for which the resolution authorities ***may consider*** that MREL should ***exceed*** the amount for loss absorption***. That is the case*** where the resolution authorities consider that such ***a higher*** amount is necessary to protect financial stability or address the risk of contagion to the financial system. In those situations, ***resolution authorities should determine a MREL for*** the liquidation entity ***consisting of an amount sufficient to absorb losses, increased by the amount necessary to properly address the potential risks identified by the resolution authorities. The liquidation entity concerned*** should comply with the MREL and should not be exempted from the prior permission regime laid down in Articles 77(2) and 78a of Regulation (EU) No 575/2013. Any intermediate entities belonging to the same resolution group as the liquidation entity concerned should continue to be required to deduct from their internal MREL capacity their holdings of internal MREL eligible resources issued by that liquidation entity. In addition, since liquidation proceedings take place at the level of the legal entity, liquidation entities still subject to MREL should comply with the requirement on an individual basis only. Lastly, certain eligibility requirements related to the ownership of the liability concerned are not relevant, as ***without the exercise of the write-down and conversion powers*** there ***would be*** no need to ***preserve the control of the subsidiary by the***

resolution entity, and should therefore not apply.

Or. en

Justification

The broader CMDI review is only just beginning and at this stage it is essential not to preempt upcoming discussions concerning the PIA and the scope of resolution within the larger package.It is crucial that we do not introduce as a rule the notion that there can be a negative PIA and at the same time concerns for financial stability and contgion risk.Our focus should be to strengthen the legal basis for the resolution authorities to have the power to set an add-on for certain liquidation entities, without creating a systematic assessment that could duplicate and blur the PIA.

Amendment 33
Othmar Karas

Proposal for a directive
Recital 13

Text proposed by the Commission	*Amendment*
(13) To ensure consistency, the national measures transposing the amendments to Directive 2014/59/EU and the amendments to Regulation (EU) No 806/2014 should apply from the same date.	(13) To ensure consistency, the national measures transposing the amendments to Directive 2014/59/EU and the amendments to Regulation (EU) No 806/2014 should apply from the same date. ***However, to ensure that the derogation in Regulation (EU) No 806/2014, Article 12g(1), subparagraph 4, would be effective immediately, Article 2, point (3), of this amending Directive should apply one day after the date of entry into force of this amending Directive.***

Or. en

Amendment 34
Johan Van Overtveldt

Proposal for a directive
Recital 14

Text proposed by the Commission	*Amendment*
(14) Since the objectives of this Directive, namely to adjust the treatment of liquidation entities under the MREL framework and the possibilities ***to comply with*** the internal MREL on a consolidated basis, cannot be sufficiently achieved by the Member States but can rather, by amending rules that are already set at Union level, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives,	(14) Since the objectives of this Directive, namely to adjust the treatment of liquidation entities under the MREL framework and the possibilities ***for resolution authorities to determine*** the internal MREL on a consolidated basis, cannot be sufficiently achieved by the Member States but can rather, by amending rules that are already set at Union level, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives,

Or. en

Justification

Clarification.

Amendment 35
Othmar Karas

Proposal for a directive
Recital 14 a (new)

Text proposed by the Commission	*Amendment*
	(14 a) This amending Directive should respect the principles of the original review mandate to the Commission by the European Parliament and the Council to ensure proportionality and a level playing field between different types of banking group structures.

Or. en

Amendment 36
Ernest Urtasun
on behalf of the Verts/ALE Group

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

Text proposed by the Commission	*Amendment*
(83aa) 'liquidation entity' means a legal person established in the Union in respect of which the group resolution plan or, for entities that are not part of a group, the resolution plan, provides that the entity is to be wound up in an orderly manner in accordance with the applicable national law;;	(83aa) 'liquidation entity' means a legal person established in the Union in respect of which the group resolution plan or, for entities that are not part of a group, the resolution plan, provides that the entity is to be wound up in an orderly manner in accordance with the applicable national law. ***Subsidiaries in a resolution group are not liquidation entities if the entity :*** ***i) provides critical functions***; ***or*** ***ii) has a TREA ratio that represents 2% of the resolution group's TREA ratio; or*** ***iii) has a LRE ratio that represents 2% of the resolution group's LRE ratio;***

Or. en

Amendment 37
Gilles Boyer, Erik Poulsen

Proposal for a directive
Article 1 – paragraph 1 – point 1
Directive 2014/59/EU
Article 2 – paragraph 1 – point 83aa

Text proposed by the Commission	*Amendment*
(83aa) 'liquidation entity' means a legal person established in the Union in respect of which the group resolution plan or, for entities that are not part of a group, the resolution plan, provides that the entity is to be wound up ***in an orderly manner in***	(83aa) 'liquidation entity' means a legal person established in the Union in respect of which the group resolution plan or, for entities that are not part of a group, the resolution plan, provides that the entity is to be wound up***; or with regard to an***

accordance with the applicable national law;;	***entity within a resolution group other than a resolution entity, the group resolution plan does not envisage the exercise of the write-down and conversion powers with respect to that entity***;

Or. en

Justification

This definition needs to cater for two cases: Case 1: the entity is part of a resolution group but is not the head of the group, Case 2 : the entity is standalone or head of a group. In case 1 the proposed drafting (ie. including the reference to the absence of « write down and conversion powers ») is appropriate. However in case 2, the Commission proposal would not be in line with the definition of the PIA. Therefore we need to slightly amend the proposed drafting, to better distinguish the two cases and refer to the absence of « write down and conversion powers » only for case 2.

Amendment 38
Othmar Karas

Proposal for a directive
Article 1 – paragraph 1 – point 1
Directive 2014/59/EU
Article 2 – 1 – point 83aa

Text proposed by the Commission	*Amendment*
(83aa) 'liquidation entity' means a legal person established in the Union in respect of which the group resolution plan or, for entities that are not part of a group, the resolution plan, provides that the entity is to be wound up ***in an orderly manner in accordance with the applicable national law;***;	(83aa) 'liquidation entity' means a legal person established in the Union in respect of which the group resolution plan or, for entities that are not part of a group, the resolution plan, provides that the entity is to be wound up ***under normal insolvency proceedings or it does not envisage the exercise of the write-down and conversion powers with respect to that entity.***;

Or. en

Amendment 39
Johan Van Overtveldt

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

Directive 2014/59/EU
Article 2 – paragraph 1 – point 83aa

Text proposed by the Commission	*Amendment*
(83aa) 'liquidation entity' means a legal person established in the Union in respect of which the group resolution plan or, for entities that are not part of a group, the resolution plan, provides that the entity is to be wound up ***in an orderly manner in accordance with the applicable national law;;***	(83aa) 'liquidation entity' means a legal person established in the Union in respect of which the group resolution plan or, for entities that are not part of a group, the resolution plan, provides that the entity is to be wound up ***under normal insolvency proceedings***;

Or. en

Justification

This amendment aims at expressing disagreement with the addition of the words "or it does not envisage the exercise of the write-down and conversion powers with respect to that entity" as proposed by the Rapporteur in his amendment 10. It is up to the resolution authority to positively determine that an institution is a liquidation entity. With the wording proposed in amendment 10, any entity for which the exercise of the write-down and conversion powers is not (yet) envisaged would be automatically - by default - qualified as liquidation entity.

Amendment 40
Ernest Urtasun
on behalf of the Verts/ALE Group

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

Text proposed by the Commission	*Amendment*
	Resolution authorities shall assess whether to limit the requirement referred to in Article 45(1) for entities under the second paragraph of Article 2, point (83aa), to the amount sufficient to absorb losses in accordance with paragraph 2, point (a), of this Article. The assessment by the resolution authority shall, in particular, evaluate whether such a limit has any possible impact on financial stability and on the risk of contagion to

the financial system.

Or. en

Amendment 41
Eero Heinäluoma

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

Text proposed by the Commission	*Amendment*
By way of derogation from the first subparagraph, ***and where necessary for the objectives of protecting financial stability or limiting potential contagion to the financial system,*** resolution ***authorities may exceptionally*** determine the requirement referred to in Article 45(1) for liquidation entities on an individual basis in the amount sufficient to absorb losses in accordance with paragraph 2, point (a), of this Article***, increased to*** the amount ***that is necessary for the achievement of those objectives***. In those cases, liquidation entities shall meet the requirement referred to in Article 45(1) by using one or more of the following:	By way of derogation from the first subparagraph, ***the*** resolution ***authority shall assess whether it is justified to*** determine the requirement referred to in Article 45(1) for liquidation entities on an individual basis in ***an amount exceeding*** the amount sufficient to absorb losses in accordance with paragraph 2, point (a), of this Article***. The assessment by the resolution authority shall consider the possible consequences of the failure of the liquidation entity concerned and shall, in particular, take into account any possible impacts on financial stability and on the risk of contagion to the financial system. The resolution authority shall also determine the requirement referred to in Article 45(1) to an amount exceeding*** the amount ***sufficient to absorb losses in accordance with paragraph 2, point (a), of this Article to such liquidation entities which resolution strategy envisages the use of alternative measures according to Article 11(6) of Directive 2014/49/EU***. In those cases, liquidation entities shall meet the requirement referred to in Article 45(1) by using one or more of the following:

Or. en

Amendment 42
Johan Van Overtveldt

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

Text proposed by the Commission	*Amendment*
By way of derogation from the first subparagraph, ***and where necessary for the objectives of protecting financial stability or limiting potential contagion to the financial system,*** resolution ***authorities may exceptionally determine*** the requirement referred to in Article 45(1) for ***liquidation entities on an individual basis in the*** amount sufficient to absorb losses in accordance with paragraph 2, point (a), of this Article***, increased*** to the ***amount that is necessary for the achievement of those objectives***. In those cases, liquidation entities shall meet the requirement referred to in Article 45(1) by using one or more of the following:	By way of derogation from the first subparagraph, ***the*** resolution ***authority shall assess whether it is justified to limit*** the requirement referred to in Article 45(1) for ***that entity, so that it does not exceed an*** amount sufficient to absorb losses in accordance with paragraph 2, point (a), of this Article***. The assessment by the resolution authority shall, in particular, evaluate this limit as regards any possible impact on financial stability and on the risk of contagion*** to the ***financial system***. In those cases, liquidation entities shall meet the requirement referred to in Article 45(1) by using one or more of the following:

Or. en

Justification

It is suggested to go back to the original wording of the BRRD2, which allows resolution authorities to increase the MREL of entities which are liquidation entities above the loss absorbing amount. The wording proposed by the Rapporteur in his amendment 11 limits this capacity as it reverses the burden of proof. In BRRD2, the resolution authority should assess whether it is justified to limit the MREL2. Amendment 11 proposed by the Rapporteur instead states that the resolution authority should assess whether it is justified to increase the MREL.

Amendment 43
Gilles Boyer, Erik Poulsen

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

Text proposed by the Commission	*Amendment*
By way of derogation from the first subparagraph, ***and where necessary for the objectives of protecting financial stability or limiting potential contagion to the financial system,*** resolution ***authorities may exceptionally*** determine the requirement referred to in Article 45(1) for liquidation entities on an individual basis ***in*** the amount sufficient to absorb losses in accordance with paragraph 2, point (a), of this Article***, increased*** to the ***amount that is necessary for the achievement of those objectives***. In those cases, liquidation entities shall meet the requirement referred to in Article 45(1) by using one or more of the following:	By way of derogation from the first subparagraph, ***the*** resolution ***authority may assess whether it is justified to*** determine the requirement referred to in Article 45(1) for liquidation entities on an individual basis ***an amount exceeding*** the amount sufficient to absorb losses in accordance with paragraph 2, point (a), of this Article***. The assessment by the resolution authority shall consider the possible consequences of the failure of the liquidation entity concerned and shall, in particular, take into account any possible impacts on financial stability and on the risk of contagion*** to the ***financial system, and shall provide justification as to why the entity concerned should nonetheless remain identified as a liquidation entity***. In those cases, liquidation entities shall meet the requirement referred to in Article 45(1) by using one or more of the following:

Or. en

Justification

The broader CMDI review is only just beginning and at this stage it is essential not to preempt upcoming discussions concerning the PIA and the scope of resolution within the larger package.It is crucial that we do not introduce as a rule the notion that there can be a negative PIA and at the same time concerns for financial stability and contgion risk.Our focus should be to strengthen the legal basis for the resolution authorities to have the power to set an add-on for certain liquidation entities, without creating a systematic assessment that could duplicate and blur the PIA.

Amendment 44
Ernest Urtasun
on behalf of the Verts/ALE Group

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

Text proposed by the Commission	*Amendment*
Holdings of own funds instruments or liabilities issued by subsidiaries ***which are liquidation entities*** for which the resolution authority has ***not determined*** the requirement referred to in Article 45(1) shall ***not*** be deducted under Article 72e(5) of Regulation (EU) No 575/2013.;	Holdings of own funds instruments or liabilities issued by subsidiaries for which the resolution authority has ***limited*** the requirement referred to in Article 45(1) ***to the amount sufficient to absorb losses*** shall be deducted under Article 72e(5) of Regulation (EU) No 575/2013.;

Or. en

Amendment 45
Johan Van Overtveldt

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

Text proposed by the Commission	*Amendment*
Holdings of own funds instruments ***or liabilities*** issued by subsidiaries which are liquidation entities for which the resolution authority has not determined the requirement referred to in Article 45(1) shall not be deducted under Article 72e(5) of Regulation (EU) No 575/2013**.**;	Holdings of ***liabilities that do not qualify as*** own funds instruments issued by subsidiaries which are liquidation entities for which the resolution authority has not determined the requirement referred to in Article 45(1) shall not be deducted under Article 72e(5) of Regulation (EU) No 575/2013;

Or. en

Justification

This amendment is identical to the Rapporteur's amendment 12.

Amendment 46
Othmar Karas

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

Text proposed by the Commission	*Amendment*
Holdings of own funds instruments or liabilities issued by subsidiaries which are liquidation entities for which the resolution authority has not determined the requirement referred to in Article 45(1) shall not be deducted under Article 72e(5) of Regulation (EU) No 575/2013.;	Holdings of own funds instruments or ***holdings of*** liabilities issued by subsidiaries which are liquidation entities for which the resolution authority has not determined the requirement referred to in Article 45(1) shall not be deducted under Article 72e(5) of Regulation (EU) No 575/2013.;

Or. en

Amendment 47
Othmar Karas

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point a
Directive 2014/59/EU
Article 45f – paragraph 1 – subparagraph 3a – introductory part

Text proposed by the Commission	*Amendment*
By way of derogation from the first and second subparagraphs, resolution authorities ***may decide to*** determine the requirement laid down in Article 45c on a consolidated basis for a subsidiary as referred to in this paragraph where all of the following conditions are met:	By way of derogation from the first and second subparagraphs, resolution authorities ***shall*** determine the requirement laid down in Article 45c on a consolidated basis for a subsidiary as referred to in this paragraph where all of the following conditions are met***, unless this impairs financial stability or risks potential contagion to the financial system in the Union***:

Or. en

Amendment 48
Gilles Boyer, Erik Poulsen

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point a
Directive 2014/59/EU
Article 45f – paragraph 1 – subparagraph 3a – introductory part

Text proposed by the Commission	*Amendment*
By way of derogation from the first and second subparagraphs, resolution authorities may decide to determine the requirement laid down in Article 45c on a consolidated basis for a subsidiary as referred to in this paragraph where all of the following conditions are met:	By way of derogation from the first and second subparagraphs***, when intermediate entities would be disproportionately affected by the deduction rules set out in Article 72e(5) of Regulation (EU) No 575/2013***, resolution authorities may decide to determine the requirement laid down in Article 45c ***of this Regulation*** on a consolidated basis for a subsidiary as referred to in this paragraph where all of the following conditions are met:

Or. en

Justification

The rule should not be the possibility for resolution authorities to opt for setting the iMREL of the intermediate entity on a solo or consolidated basis. This possibility should be restrictred as much as possible, since it may lead to very diverse outcomes depending on group structures, either a large reduction or a large increase in requirements, for reasons that can be unwarrented.This increase would for instance happen if the intermediate entity holds a large amount of participations in liquidation entities that are exempted from iMREL, which means that in the end there could be a disconnect between the requirement for iMREL that would be set on a consolidated basis at the level of the intermediate entity for the whole subgroup and the individual PIAs and iMREL determined for the individual entities composing this same subgroup.In those cases where the sub-consolidated target would be disproportionately higher that the individual target and would no longer reflect the composition of the subgroup in terms of entities not earmarked for resolution, then resolution authorities should not set the iMREL of the intermediate entity on a consolidated basis.

Amendment 49
Frances Fitzgerald

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point a
Directive 2014/59/EU
Article 45f – paragraph 1 – subparagraph 3a – introductory part

Text proposed by the Commission	*Amendment*
By way of derogation from the first and second subparagraphs, resolution authorities may ***decide to determine*** the requirement laid down in Article 45c on a	By way of derogation from the first and second subparagraphs, resolution authorities may ***permit a subsidiary institution or entity referred to in Article***

consolidated basis ***for a subsidiary as referred to in this paragraph*** where all of the following conditions are met:	***1(1), points (b), (c) and (d) to comply with*** the requirement laid down in Article 45c on a consolidated basis where all of the following conditions are met:

Or. en

Justification

As highlighted in the proposal, the intention of the Commission was to allow "certain intermediate entities, i.e. intermediate entities forming part of holdco structures and opco structures, where prudential requirements are already set on a consolidated basis, to comply with the internal MREL on a consolidated basis subject to the decision of the resolution authority". However, the current drafting of Art 45 f does not reflect this. Instead, it states that resolution authorities may "decide" to require an entity to comply with sub-consolidation. As some entities which may be able to benefit from this provision may not wish to apply for sub-consolidation for operational reasons, it would be better to re-draft the article to clarify that resolution authorities may "permit" entities to comply with sub-consolidation, in line with the intention of the proposal.

Amendment 50
Ernest Urtasun
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point a
Directive 2014/59/EU
Article 45f – paragraph 1 –subparagraph 3a – point a – introductory part

Text proposed by the Commission	*Amendment*
(a) the subsidiary meets ***one of*** the following conditions:	(a) the subsidiary meets the following conditions:

Or. en

Amendment 51
Johan Van Overtveldt

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point a
Directive 2014/59/EU
Article 45f – paragraph 1 – subparagraph 3a – point a – point i – indent 1

Text proposed by the Commission	*Amendment*
– the resolution entity is a Union parent financial holding company or a Union parent mixed financial holding company;	– the resolution entity is a Union parent financial holding company or a Union parent mixed financial holding company ***which does not have on its balance sheet any excluded liabilities as referred to in Article 72a(2) of Regulation 575/2013 that rank pari passu or junior to eligible liabilities instruments***;

Or. en

Justification

This amendment aims at clearly delineating the cases in which a HoldCo can benefit from a sub-consolidation. In Article 45f, paragraph 1, point (a), point (i) defines a regime for HoldCos while point (ii) defines a regime for OpCos. Some entities may have a holding status and at the same time be operational companies. In order to clarify that (i) is for "real" holding companies, it is suggested to refer to the "clean" HoldCo status as defined in Article 72a(2) of the CRR. If necessary, a cross-reference could also be included to acknowledge the 5% de minimis rule.

Amendment 52
Johan Van Overtveldt

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point a
Directive 2014/59/EU
Article 45f – paragraph 1 – subparagraph 3a – point a – point i – indent 3

Text proposed by the Commission	*Amendment*
– the resolution entity does not hold directly any subsidiary institution or entity as referred to in Article 1(1), points (b), (c) or (d), other than the subsidiary concerned;	***deleted***

Or. en

Justification

The rationale behind this condition unclear. There may be cases where the intermediate entity (a credit institution consolidating a banking group) has a sister company (e.g. an investment firm) with different activities. It is not clear why the level of intra-resolution exposures would

decrease in such a case. In addition, there is no similar condition under point (ii) applying to OpCos. It may also be an obstacle to the application of the sub-consolidation regime to some bank-insurance holdings.

Amendment 53
Othmar Karas

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point a
Directive 2014/59/EU
Article 45f – paragraph 1 – subparagraph 3a – point a – point ii

Text proposed by the Commission	*Amendment*
(ii) the subsidiary is subject to the requirement referred to in Article 104a of Directive 2013/36/EU ***or to the combined buffer requirement*** on a consolidated basis;	(ii) the subsidiary is subject to the requirement referred to in Article 104a of Directive 2013/36/EU on a consolidated ***or on an individual*** basis;

Or. en

Amendment 54
Johan Van Overtveldt

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point a
Directive 2014/59/EU
Article 45f – paragraph 1 – subparagraph 3a – point a – point ii

Text proposed by the Commission	*Amendment*
(ii) the subsidiary is subject to the requirement referred to in Article 104a of Directive 2013/36/EU ***or to the combined buffer requirement*** on a consolidated basis;	(ii) the subsidiary is subject to the requirement referred to in Article 104a of Directive 2013/36/EU on a consolidated basis ***only***; ***both the subsidiary and the resolution entity are established in the same Member State and are part of the same resolution group;***

Or. en

Justification

Sub-consolidated internal MREL should be limited further than what the Rapporteur suggests

in his amendment 13. The basic principle is to set internal MREL at individual level; only in limited cases it can be on a sub-consolidated level. Contrary to the HoldCo groups, the OpCo groups did not raise concerns. Therefore, the fast track should not allow too many OpCos to become eligible for the sub-consolidated MREL requirement. The subsidiary and the resolution entity should be established in the same Member State, and to replicate the condition already applicable under (i) for HoldCos.

Amendment 55
Gilles Boyer, Erik Poulsen

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point a
Directive 2014/59/EU
Article 45f – paragraph 1 – subparagraph 3a – point a – point ii

Text proposed by the Commission	*Amendment*
(ii) the subsidiary is subject to the requirement referred to in Article 104a of Directive 2013/36/EU ***or to the combined buffer requirement*** on a consolidated basis;	(ii) the subsidiary is subject to the requirement referred to in Article 104a of Directive 2013/36/EU ***only*** on a consolidated basis;

Or. en

Justification

The requirement referred to in Article 104a of Directive 2013/36/EU should only apply on a consolidated basis.

Amendment 56
Ernest Urtasun
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point a
Directive 2014/59/EU
Article 45f – paragraph 1 – subparagraph 3a – point a – point ii

Text proposed by the Commission	*Amendment*
(ii) the subsidiary is subject to the requirement referred to in Article 104a of Directive 2013/36/EU ***or to the combined buffer requirement*** on a consolidated	(ii) the subsidiary is subject to the requirement referred to in Article 104a of Directive 2013/36/EU on a consolidated basis;

basis;

Or. en

Amendment 57
Eero Heinäluoma

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

Text proposed by the Commission	*Amendment*
(b) ***compliance*** with the requirement laid down in Article 45c on ***a consolidated*** basis does not negatively affect in a significant way the resolvability of the resolution group, or the write down or conversion, in accordance with Article 59, of relevant capital instruments and eligible liabilities of the subsidiary concerned or of other entities in the resolution group**.**;	(b) ***there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities to the subsidiary and the exemption from the obligation to comply*** with the requirement laid down in Article 45c on ***an individual*** basis does not negatively affect in a significant way the resolvability of the resolution group, or the write down or conversion, in accordance with Article 59, of relevant capital instruments and eligible liabilities of the subsidiary concerned or of other entities in the resolution group;

Or. en

Amendment 58
Johan Van Overtveldt

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

Text proposed by the Commission	*Amendment*
(b) ***compliance*** with the requirement laid down in Article 45c on ***a consolidated*** basis does not negatively affect in a significant way the resolvability of the	(b) ***the exemption from the obligation to comply*** with the requirement laid down in Article 45c on ***an individual*** basis ***as a result of the application of the derogation***

resolution group, or the write down or conversion, in accordance with Article 59, of relevant capital instruments and eligible liabilities of the subsidiary concerned or of other entities in the resolution group.***;***	***from the first and second paragraphs*** does not negatively affect in a significant way the resolvability of the resolution group, or the write down or conversion, in accordance with Article 59, of relevant capital instruments and eligible liabilities of the subsidiary concerned or of other entities in the resolution group.

Or. en

Amendment 59
Othmar Karas

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

Text proposed by the Commission	*Amendment*
(b) compliance with the requirement laid down in Article 45c on a consolidated basis does not negatively affect in a significant way the resolvability of the resolution group, or the write down or conversion, in accordance with Article 59, of relevant capital instruments and eligible liabilities of the subsidiary concerned or of other entities in the resolution group.;	(b) compliance with the requirement laid down in Article 45c on a consolidated basis does not negatively affect in a significant ***and material*** way the resolvability of the resolution group, or the write down or conversion, in accordance with Article 59, of relevant capital instruments and eligible liabilities of the subsidiary concerned or of other entities in the resolution group.;

Or. en

Amendment 60
Gilles Boyer, Erik Poulsen

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

Text proposed by the Commission	*Amendment*
(b) compliance with the requirement	(b) compliance with the requirement

laid down in Article 45c on a consolidated basis does not negatively affect in a ***significant*** way the resolvability of the resolution group, or the write down or conversion, in accordance with Article 59, of relevant capital instruments and eligible liabilities of the subsidiary concerned or of other entities in the resolution group.;	laid down in Article 45c on a consolidated basis does not negatively affect in a ***material*** way the resolvability of the resolution group, or the write down or conversion, in accordance with Article 59, of relevant capital instruments and eligible liabilities of the subsidiary concerned or of other entities in the resolution group.;

Or. en

Justification

It is important to ensure that the deterioration of the resolvability of the group is only taken into consideration when it reaches a certain materiality threshold.

Amendment 61
Ernest Urtasun
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point a
Directive 2014/59/EU
Article 45f – paragraph 1 – subparagraph 3a – point ba (new

Text proposed by the Commission	*Amendment*
	(b a) the application of the requirement under Article 45(1) on a consolidated basis is higher than the requirement on an individual basis without applying the deduction set out in Article 72e(5) of Regulation (EU) No 575/2013.

Or. en

Amendment 62
Johan Van Overtveldt

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point a

Directive 2014/59/EU
Article 45f – paragraph 1 – subparagraph 3b

Text proposed by the Commission	*Amendment*
	The application of Article 45c on a consolidated basis as a result of the derogation from the first and second subparagraphs referred to in subparagraph 3a, point (b), shall under no circumstances result in a situation where the amount of eligible liabilities issued by the intermediate entity at the individual level is lower than the requirement on an individual basis without applying the deduction set out in Article 72e(5) of Regulation (EU) No 575/2013.

Or. en

Justification

With the subparagraph, it is suggested to set a floor under which sub-consolidation may no longer be applied. The floor is equal to the level of the individual MREL without applying the deductions introduced through the quick fix. A situation where the level of sub-consolidated MREL would be lower than what was required pre-quick fix, when double counting was tolerated should be avoided as it would be detrimental to the resolvability of the group. The result of the quick fix + fast frack should not lead to a situation where the MREL decreases as compared to what was applicable beforehand.

Amendment 63
Johan Van Overtveldt

Proposal for a directive
Article 1 – paragraph 1 – point 3 – point a a (new)
Directive 2014/59/EU
Article 45f – paragraph 1a

Text proposed by the Commission	*Amendment*
	(a a) the following paragraph is inserted:
	'
	1a. Where the resolution authority identifies a risk that the application of the

requirement laid down in Article 45c on an individual basis may not allow to ensure that the eligible liabilities are sufficient to restore compliance with the applicable consolidated own funds requirements after the application of a resolution scheme, the resolution authority may decide to apply the requirement laid down in Article 45c on an individual and on an consolidated basis. In this case, the deduction under Article 72e(5) of Regulation (EU) No 575/2013 shall not apply.

'

Or. en

Justification

This amendment aims at enabling the resolution authority to apply both an individual and a consolidated approach when the requirement on an individual basis would not be sufficient to ensure compliance with the consolidated own fund requirements post resolution.

Amendment 64
Ernest Urtasun
on behalf of the Verts/ALE Group

Proposal for a directive
Article 2 – paragraph 1 – point 1
Regulation (EU) No 806/2014
Article 3 – paragraph 1 – point 24aa

Text proposed by the Commission	*Amendment*
(24aa) 'liquidation entity' means a legal person established in a participating Member State in respect of which the group resolution plan or, for entities that are not part of a group, the resolution plan, provides that the entity is to be wound up in an orderly manner in accordance with the applicable national law;;	(24aa) 'liquidation entity' means a legal person established in a participating Member State in respect of which the group resolution plan or, for entities that are not part of a group, the resolution plan, provides that the entity is to be wound up in an orderly manner in accordance with the applicable national law. ***Subsidiaries in a resolution group are not liquidation entities if the entity:*** ***i) provides critical functions***; ***or***

ii) has a TREA ratio that represents 2% of the resolution group's TREA ratio; or

iii) has a LRE ratio that represents 2% of the resolution group's LRE ratio;

Or. en

Amendment 65
Othmar Karas

Proposal for a directive
Article 2 – paragraph 1 – point 1
Regulation (EU) No 806/2014
Article 3 – paragraph 1 – point 24aa

Text proposed by the Commission	*Amendment*
(24aa) 'liquidation entity' means a legal person established in a participating Member State in respect of which the group resolution plan or, for entities that are not part of a group, the resolution plan, provides that the entity is to be wound up ***in an orderly manner in accordance with the applicable national law;***;	(24aa) 'liquidation entity' means a legal person established in a participating Member State in respect of which the group resolution plan or, for entities that are not part of a group, the resolution plan, provides that the entity is to be wound up ***under normal insolvency proceedings or it does not envisage the exercise of the write-down and conversion powers with respect to that entity.***;

Or. en

Amendment 66
Ernest Urtasun
on behalf of the Verts/ALE Group

Proposal for a directive
Article 2 – paragraph 1 – point 2 – point b
Regulation (EU) No 806/2014
Article 12d – paragraph 2a – subparagraph 1a (new)

Text proposed by the Commission	*Amendment*
	The Board shall assess whether to limit the requirement referred to in Article 12a(1) for entities under the second

subparagraph of Article 3, point (24aa), to the amount sufficient to absorb losses in accordance with paragraph 2, point (a), of this Article. The assessment by the Board shall, in particular, evaluate whether such a limit has any possible impact on financial stability and on the risk of contagion to the financial system.

Or. en

Amendment 67
Johan Van Overtveldt

Proposal for a directive
Article 2 – paragraph 1 – point 2 – point b
Regulation (EU) No 806/2014
Article 12d – paragraph 2a – subparagraph 2 – introductory part

Text proposed by the Commission	*Amendment*
By way of derogation from the first subparagraph, ***and where necessary for the objectives of protecting financial stability or limiting potential contagion to the financial system,*** the Board ***may exceptionally determine*** the requirement referred to in Article 12a(1) for ***liquidation entities on an individual basis in the*** amount sufficient to absorb losses in accordance with paragraph 2, point (a), of this Article***, increased*** to the ***amount that is necessary for the achievement of those objectives***. In those cases, liquidation entities shall meet the requirement referred to in Article 12a(1) by using one or more of the following:	By way of derogation from the first subparagraph, the Board ***shall assess whether it is justified to limit*** the requirement referred to in Article 12a(1) for ***that entity, so that it does not exceed an*** amount sufficient to absorb losses in accordance with paragraph 2, point (a), of this Article***. The assessment by the Board shall evaluate, in particular, the limit referred to in Article 12d (2a) as regards any possible impact on financial stability and on the risk of contagion*** to the ***financial system***. In those cases, liquidation entities shall meet the requirement referred to in Article 12a(1) by using one or more of the following:

Or. en

Justification

This amendment aims at mirroring the proposed amendment on Directive 2014/59/EU - Article 45c - paragraph 2a - subparagraph 2.

Amendment 68
Gilles Boyer, Erik Poulsen

Proposal for a directive
Article 2 – paragraph 1 – point 2 – point b
Regulation (EU) No 806/2014
Article 12d – paragraph 2a – subparagraph 2 – introductory part

Text proposed by the Commission	*Amendment*
By way of derogation from the first subparagraph, ***and where necessary for the objectives of protecting financial stability or limiting potential contagion to the financial system,*** the Board may ***exceptionally*** determine the requirement referred to in Article 12a(1) for liquidation entities on an individual basis ***in*** the amount sufficient to absorb losses in accordance with paragraph 2, point (a), of this Article***, increased*** to the ***amount that is necessary for the achievement of those objectives***. In those cases, liquidation entities shall meet the requirement referred to in Article 12a(1) by using one or more of the following:	By way of derogation from the first subparagraph, the Board may ***assess whether it is justified to*** determine the requirement referred to in Article 12a(1) for liquidation entities on an individual basis ***an amount exceeding*** the amount sufficient to absorb losses in accordance with paragraph 2, point (a), of this Article***. The assessment by the Board shall consider the possible consequences of the failure of the liquidation entity concerned and shall, in particular, take into account any possible impacts on financial stability and on the risk of contagion*** to the ***financial system, and shall provide justification as to why the entity concerned should nonetheless remain identified as a liquidation entity***. In those cases, liquidation entities shall meet the requirement referred to in Article 12a(1) by using one or more of the following:

Or. en

Justification

The broader CMDI review is only just beginning and at this stage it is essential not to preempt upcoming discussions concerning the PIA and the scope of resolution within the larger package.It is crucial that we do not introduce as a rule the notion that there can be a negative PIA and at the same time concerns for financial stability and contgion risk.Our focus should be to strengthen the legal basis for the resolution authorities to have the power to set an add-on for certain liquidation entities, without creating a systematic assessment that could duplicate and blur the PIA.

Amendment 69
Johan Van Overtveldt

Proposal for a directive
Article 2 – paragraph 1 – point 2 – point b
Regulation (EU) No 806/2014
Article 12d – paragraph 2a – subparagraph 4

Text proposed by the Commission	*Amendment*
Holdings of own funds instruments ***or liabilities*** issued by subsidiaries which are liquidation entities for which the resolution authority has not determined the requirement referred to in Article 12a(1) shall not be deducted under Article 72e(5) of Regulation (EU) No 575/2013.;	Holdings of ***liabilities that do not qualify as*** own funds instruments issued by subsidiaries which are liquidation entities for which the resolution authority has not determined the requirement referred to in Article 12a(1) shall not be deducted under Article 72e(5) of Regulation (EU) No 575/2013.;

Or. en

Justification

This amendment is identical to the Rapporteur's amendment 16.

Amendment 70
Ernest Urtasun
on behalf of the Verts/ALE Group

Proposal for a directive
Article 2 – paragraph 1 – point 2 – point b
Regulation (EU) No 806/2014
Article 12d – paragraph 2a – subparagraph 4

Text proposed by the Commission	*Amendment*
Holdings of own funds instruments or liabilities issued by subsidiaries ***which are liquidation entities*** for which the ***resolution authority has not determined*** the requirement referred to in Article 12a(1) shall ***not*** be deducted under Article 72e(5) of Regulation (EU) No 575/2013.;	Holdings of own funds instruments or liabilities issued by subsidiaries for which the ***Board has limited*** the requirement referred to in Article 12a(1) ***to the amount sufficient to absorb losses*** shall be deducted under Article 72e(5) of Regulation (EU) No 575/2013.;

Or. en

Amendment 71
Othmar Karas

Proposal for a directive
Article 2 – paragraph 1 – point 2 – point b
Regulation (EU) No 806/2014
Article 12d – paragraph 2a – subparagraph 4

Text proposed by the Commission	*Amendment*
Holdings of own funds instruments or liabilities issued by subsidiaries which are liquidation entities for which the resolution authority has not determined the requirement referred to in Article 12a(1) shall not be deducted under Article 72e(5) of Regulation (EU) No 575/2013.;	Holdings of own funds instruments or ***holdings of*** liabilities issued by subsidiaries which are liquidation entities for which the resolution authority has not determined the requirement referred to in Article 12a(1) shall not be deducted under Article 72e(5) of Regulation (EU) No 575/2013.;

Or. en

Amendment 72
Othmar Karas

Proposal for a directive
Article 2 – paragraph 1 – point 3 – point a
Regulation (EU) No 806/2014
Article 12g – paragraph 1 – subparagraph 3a – introductory part

Text proposed by the Commission	*Amendment*
By way of derogation from the first and second subparagraphs, the Board ***may*** decide to determine the requirement laid down in Article 12d on a consolidated basis for a subsidiary as referred to in this paragraph where all of the following conditions are met:	By way of derogation from the first and second subparagraphs, the Board ***shall*** decide to determine the requirement laid down in Article 12d on a consolidated basis for a subsidiary as referred to in this paragraph where all of the following conditions are met***, unless this impairs financial stability or risks potential contagion to the financial system in the Union.***:

Or. en

Amendment 73
Gilles Boyer, Erik Poulsen

Proposal for a directive
Article 2 – paragraph 1 – point 3 – point a
Regulation (EU) No 806/2014
Article 12g – paragraph 1 – subparagraph 3a – introductory part

Text proposed by the Commission	*Amendment*
By way of derogation from the first and second subparagraphs, the Board may decide to determine the requirement laid down in Article 12d on a consolidated basis for a subsidiary as referred to in this paragraph where all of the following conditions are met:	By way of derogation from the first and second subparagraphs***, when the intermediate entities would be disproportionately affected by the deduction rules set out in Article 72(e)(5) of Regulation (EU) 575/2013***, the Board may decide to determine the requirement laid down in Article 12d on a consolidated basis for a subsidiary as referred to in this paragraph where all of the following conditions are met:

Or. en

Justification

The rule should not be the possibility for the Board to opt for setting the iMREL of the intermediate entity on a solo or consolidated basis. This possibility should be restrictred as much as possible, since it may lead to very diverse outcomes depending on group structures, either a large reduction or a large increase in requirements, for reasons that can be unwarrented.This increase would for instance happen if the intermediate entity holds a large amount of participations in liquidation entities that are exempted from iMREL, which means that in the end there could be a disconnect between the requirement for iMREL that would be set on a consolidated basis at the level of the intermediate entity for the whole subgroup and the individual PIAs and iMREL determined for the individual entities composing this same subgroup.In those cases where the sub-consolidated target would be disproportionately higher that the individual target and would no longer reflect the composition of the subgroup in terms of entities not earmarked for resolution, then the Board should not set the iMREL of the intermediate entity on a consolidated basis.

Amendment 74
Ernest Urtasun
on behalf of the Verts/ALE Group

Proposal for a directive
Article 2 – paragraph 1 – point 3 – point a
Regulation (EU) No 806/2014
Article 12g – paragraph 1 – subparagraph 3a – point a – introductory part

Text proposed by the Commission	*Amendment*
(a) the subsidiary meets ***one of*** the following conditions:	(a) the subsidiary meets the following conditions:

Or. en

Amendment 75
Johan Van Overtveldt

Proposal for a directive
Article 2 – paragraph 1 – point 3 – point a
Regulation (EU) No 806/2014
Article 12g – paragraph 1 – subparagraph 3a – point a – point i – indent 1

Text proposed by the Commission	*Amendment*
– the resolution entity is a Union parent financial holding company or a Union parent mixed financial holding company;	– the resolution entity is a Union parent financial holding company or a Union parent mixed financial holding company ***which does not have on its balance sheet any excluded liabilities as referred to in Article 72a(2) of Regulation 575/2013 that rank pari passu or junior to eligible liabilities instruments***; ***;***

Or. en

Justification

This amendment aims at mirroring the proposed amendment on Directive 2014/59/EU - Article 45f - paragraph 1 - subparagraph 3a - point a - point i.

Amendment 76
Othmar Karas

Proposal for a directive
Article 2 – paragraph 1 – point 3 – point a
Regulation (EU) No 806/2014
Article 12g – paragraph 1 – subparagraph 3a – point a – point ii

Text proposed by the Commission	*Amendment*
(ii) the subsidiary is subject to the	(ii) the subsidiary is subject to the

requirement referred to in Article 104a of Directive 2013/36/EU ***or to the combined buffer requirement*** on a consolidated basis;	requirement referred to in Article 104a of Directive 2013/36/EU on a consolidated ***or on an individual*** basis;

Or. en

Amendment 77
Johan Van Overtveldt

Proposal for a directive
Article 2 – paragraph 1 – point 3 – point a
Regulation (EU) No 806/2014
Article 12g – paragraph 1 – subparagraph 3a – point a – point ii

Text proposed by the Commission	*Amendment*
(ii) the subsidiary is subject to the requirement referred to in Article 104a of Directive 2013/36/EU ***or to the combined buffer requirement*** on a consolidated basis;	(ii) the subsidiary is subject to the requirement referred to in Article 104a of Directive 2013/36/EU on a consolidated basis ***only***; ***both the subsidiary and the resolution entity are established in the same Member State and are part of the same resolution group;***

Or. en

Justification

This amendment aims at mirroring the proposed amendment on Directive 2014/59/EU - Article 45f - paragraph 1 - subparagraph 3a - point a - point ii.

Amendment 78
Gilles Boyer, Erik Poulsen

Proposal for a directive
Article 2 – paragraph 1 – point 3 – point a
Regulation (EU) No 806/2014
Article 12g – paragraph 1 – subparagraph 3a – point a – point ii

Text proposed by the Commission	*Amendment*
(ii) the subsidiary is subject to the requirement referred to in Article 104a of Directive 2013/36/EU ***or to the combined***	(ii) the subsidiary is subject to the requirement referred to in Article 104a of Directive 2013/36/EU ***only*** on a

buffer requirement on a consolidated basis;	consolidated basis;

Or. en

Justification

The requirement referred to in Article 104a of Directive 2013/36/EU should only apply on a consolidated basis.

Amendment 79
Ernest Urtasun
on behalf of the Verts/ALE Group

Proposal for a directive
Article 2 – paragraph 1 – point 3 – point a
Regulation (EU) No 806/2014
Article 12g – paragraph 1 – subparagraph 3a – point a – point ii

Text proposed by the Commission	*Amendment*
(ii) the subsidiary is subject to the requirement referred to in Article 104a of Directive 2013/36/EU ***or to the combined buffer requirement*** on a consolidated basis;	(ii) the subsidiary is subject to the requirement referred to in Article 104a of Directive 2013/36/EU on a consolidated basis;

Or. en

Amendment 80
Johan Van Overtveldt

Proposal for a directive
Article 2 – paragraph 1 – point 3 – point a
Regulation (EU) No 806/2014
Article 12g – paragraph 1 – subparagraph 3a – point b

Text proposed by the Commission	*Amendment*
(b) ***compliance*** with the requirement laid down in Article 12d on ***a consolidated*** basis does not negatively affect in a significant way the resolvability of the resolution group, or the write down or conversion, in accordance with Article ***21***,	(b) ***the exemption from the obligation to comply*** with the requirement laid down in Article 12d on ***an individual*** basis ***as a result of the application of the derogation from the first and second paragraphs*** does not negatively affect in a significant way

of relevant capital instruments and eligible liabilities of the ***institution or*** subsidiary concerned or of other entities in the resolution group.***;***	the resolvability of the resolution group, or the write down or conversion, in accordance with Article ***12d***, of relevant capital instruments and eligible liabilities of the subsidiary concerned or of other entities in the resolution group.

Or. en

Justification

This amendment aims at mirroring the proposed amendment on Directive 2014/59/EU - Article 45f - paragraph 1 - subparagraph 3a - point b.

Amendment 81
Othmar Karas

Proposal for a directive
Article 2 – paragraph 1 – point 3 – point a
Regulation (EU) No 806/2014
Article 12g – paragraph 1 – subparagraph 3a – point b

Text proposed by the Commission	*Amendment*
(b) compliance with the requirement laid down in Article 12d on a consolidated basis does not negatively affect in a significant way the resolvability of the resolution group, or the write down or conversion, in accordance with Article 21, of relevant capital instruments and eligible liabilities of the institution or subsidiary concerned or of other entities in the resolution group.;	(b) compliance with the requirement laid down in Article 12d on a consolidated basis does not negatively affect in a significant ***and material*** way the resolvability of the resolution group, or the write down or conversion, in accordance with Article 21, of relevant capital instruments and eligible liabilities of the institution or subsidiary concerned or of other entities in the resolution group.;

Or. en

Amendment 82
Gilles Boyer, Erik Poulsen

Proposal for a directive
Article 2 – paragraph 1 – point 3 – point a
Regulation (EU) No 806/2014
Article 12g – paragraph 1 – subparagraph 3a – point b

Text proposed by the Commission	*Amendment*
(b) compliance with the requirement laid down in Article 12d on a consolidated basis does not negatively affect in a ***significant*** way the resolvability of the resolution group, or the write down or conversion, in accordance with Article 21, of relevant capital instruments and eligible liabilities of the institution or subsidiary concerned or of other entities in the resolution group.;	(b) compliance with the requirement laid down in Article 12d on a consolidated basis does not negatively affect in a ***material*** way the resolvability of the resolution group, or the write down or conversion, in accordance with Article 21, of relevant capital instruments and eligible liabilities of the institution or subsidiary concerned or of other entities in the resolution group.;

Or. en

Justification

It is important to ensure that the deterioration of the resolvability of the group is only taken into consideration when it reaches a certain materiality threshold.

Amendment 83
Ernest Urtasun
on behalf of the Verts/ALE Group

Proposal for a directive
Article 2 – paragraph 1 – point 3 – point a
Regulation (EU) No 806/2014
Article 12g – paragraph 1 – subparagraph 3a – point ba

Text proposed by the Commission	*Amendment*
	(b a) the application of the requirement under Article 12a(1) on a consolidated basis is higher than the requirement on an individual basis without applying the deduction set out in Article 72e(5) of Regulation No 575/2013.

Or. en

Amendment 84
Johan Van Overtveldt

Proposal for a directive

Article 2 – paragraph 1 – point 3 – point a
Regulation (EU) No 806/2014
Article 12g – paragraph 1 – subparagraph 3b (new)

Text proposed by the Commission	*Amendment*
	The application of Article 12d on an consolidated basis as a result of the derogation from the first and second paragraphs referred to in subparagraph 3a, point (b), shall under no circumstances result in a situation where the amount of eligible liabilities issued by the intermediate entity at the individual level is lower than the requirement on an individual basis without applying the deduction set out in Article 72e(5) of Regulation No 575/2013.

Or. en

Amendment 85
Johan Van Overtveldt

Proposal for a directive
Article 2 – paragraph 1 – point 3 – point b
Regulation (EU) No 806/2014
Article 12g – paragraph 2a – subparagraph 2 – introductory part

Text proposed by the Commission	*Amendment*
The liabilities referred to in the first subparagraph, points (a) and (b), shall not exceed the amount determined by subtracting from the amount of the requirement referred to in Article ***45(1)*** applicable to the subsidiary included in the ***consolidated*** the sum of all of the following:	The liabilities referred to in the first subparagraph, points (a) and (b), shall not exceed the amount determined by subtracting from the amount of the requirement referred to in Article ***12(1)*** applicable to the subsidiary included in the ***consolidation*** the sum of all of the following:

Or. en

Justification

This amendment is identical to the Rapporteur's amendment 19.

Amendment 86
Othmar Karas

Proposal for a directive
Article 2 – paragraph 1 – point 3 – point b
Regulation (EU) No 806/2014
Article 12g – paragraph 2a – subparagraph 2 – introductory part

Text proposed by the Commission	*Amendment*
The liabilities referred to in the first subparagraph, points (a) and (b), shall not exceed the amount determined by subtracting from the amount of the requirement referred to in Article ***45(1)*** applicable to the subsidiary included in the consolidated the sum of all of the following:	The liabilities referred to in the first subparagraph, points (a) and (b), shall not exceed the amount determined by subtracting from the amount of the requirement referred to in Article ***12(1)*** applicable to the subsidiary included in the consolidated the sum of all of the following:

Or. en

Amendment 87
Othmar Karas

Proposal for a directive
Article 4 – paragraph 2

Text proposed by the Commission	*Amendment*
Article 2 shall apply from … [OP please insert the date = 1 day after the transposition date of this amending Directive].	Article 2***, points (1) and (2),*** shall apply from … [OP please insert the date = 1 day after the transposition date of this amending Directive]. ***Article 2, point (3), shall apply from … [OP please insert the date = 1 day after entry into force of this amending Directive]***

Or. en