European Parliament
2019-2024

Committee on Economic and Monetary Affairs

2023/0113(COD)

11.9.2023

***I
DRAFT REPORT

on the proposal for a directive of the European Parliament and of the Council 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
(COM(2023)0229 – C9-0134/2023 – 2023/0113(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Jonás Fernández

Symbols for procedures

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

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

Amendments to a draft act

Amendments by Parliament set out in two columns

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

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

Amendments by Parliament in the form of a consolidated text

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

CONTENTS

Page

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council 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
(COM(2023)0229 – C9-0134/2023 – 2023/0113(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2023)0229),

– having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0134/2023),

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

– having regard to the opinion of the European Central Bank of 5 July 2023[1],

– having regard to the opinion of the Economic and Social Committee of 13 July 2023[2],

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

– having regard to the report of the Committee on Economic and Monetary Affairs (A9-0000/2023),

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

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

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

[1] OJ C 307, 31.8.2023, p. 19.
[2] Not yet published in the Official Journal.

Amendment 1

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

Amendment 2

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 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***	(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 ***other*** subsidiaries

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.

(‘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 Commission also concluded that the MREL framework would be ***made*** more proportionate by ***adjusting the rules on*** the scope of exposures that an intermediate entity is required to deduct***, where the issuing entity is*** a liquidation entity ***not subject to a MREL decision. In those cases, it is not expected that the write-down and conversion powers will need*** to be ***exercised in respect of such liquidation entities***, thus removing the need to safeguard ***the*** 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.

Or. en

Amendment 3

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 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.	(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 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 resolution authority, negatively affect 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 setting of internal MREL on a consolidated basis would be detrimental to the resolvability of the resolution group, is where the amount of that MREL does not ensure compliance with the individual own funds requirements applicable after the exercise of the write-down and conversion powers.***

Or. en

Amendment 4

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 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.	(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 ***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

Amendment 5

Proposal for a directive
Recital 7

Text proposed by the Commission	*Amendment*
(7) For liquidation ***entities***, the MREL is ***normally limited*** 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.	(7) ***Under the current MREL framework,*** the MREL ***for entities earmarked*** for liquidation is ***set, in the majority of cases,*** 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

Amendment 6

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***	(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***

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 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 7

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	(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.

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. 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

Amendment 8

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	(10) There are liquidation entities for which the 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 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

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.

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

Amendment 9

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 ***possibility for resolution authorities to determine*** 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

Amendment 10

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 it does not envisage the exercise of the write-down and conversion powers with respect to that entity***;

Or. en

Amendment 11

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

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***. 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 12

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

Amendment 13

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***;

Or. en

Amendment 14

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 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 15

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

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*** determine the requirement referred to in Article 12a(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 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***. 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

Amendment 16

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

Amendment 17

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***;

Or. en

Amendment 18

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	(b) compliance with the requirement laid down in Article 12d on a consolidated basis does not negatively affect 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

liabilities of the institution or subsidiary concerned or of other entities in the resolution group.;	institution or subsidiary concerned or of other entities in the resolution group;

Or. en

Amendment 19

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