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COMMISSION DELEGATED REGULATION (EU) …/...

of 23.3.2016

supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the content of recovery plans, resolution plans and group resolution plans, the minimum criteria that the competent authority is to assess as regards recovery plans and group recovery plans, the conditions for group financial support, the requirements for independent valuers, the contractual recognition of write-down and conversion powers, the procedures and contents of notification requirements and of notice of suspension and the operational functioning of the resolution colleges

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Directive 2014/59/EU ('the Directive') empowers the Commission to adopt delegated acts specifying procedural and content related requirements for the recovery and resolutions of institutions, following the submission of draft technical standards by the European Banking Authority (EBA). Such acts are to be adopted in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010 establishing the EBA.

In particular: Article 5(10) of the Directive empowers the Commission to adopt delegated acts specifying the content of recovery plans; Article 6(8) of the Directive empowers the Commission to adopt delegated acts specifying the minimum criteria that the competent authority is to assess as regards recovery plans and group recovery plans; Articles 10(9) and 12(6) of the Directive empower the Commission to adopt delegated acts specifying the content of respectively resolution plans and group resolution plans; Article 15(4) of the Directive empower the Commission to adopt delegated acts specifying the matters and criteria for the assessment of resolvability; Article 23(2) of the Directive empowers the Commission to adopt delegated acts specifying the conditions for group financial support; Article 36(14) of the Directive empowers the Commission to adopt delegated acts specifying the circumstances in which a person is independent from both the resolution authority and the institution or entity referred to in point (b), (c), or (d) of Article 1(1) of the Directive for the purposes of Article 36(1) and Article 74 of the Directive; Article 55(3) of the Directive empowers the Commission to adopt delegated acts further determining the list of liabilities to which the exclusion in Article 55(1) applies (exclusion from the requirement to include the contractual term), and the contents of the term required in that paragraph, taking into account banks' different business models; Article 82(3) of the Directive empowers the Commission to adopt delegated acts specifying the procedures and contents relating to the following requirements: (a) the notifications referred to in Articles 81(1) (2) (3) and (b) the notice of suspension referred to in Article 83; Article 88(7) of the Directive empowers the Commission to adopt delegated acts specifying the operational functioning of the resolution colleges for the performance of the tasks referred to in paragraph 1 of Article 88 of the Directive.

In accordance with Article 10(1) of Regulation (EU) No 1093/2010, the Commission shall decide within three months of receipt of the draft technical standards whether to endorse the drafts submitted. The Commission may also endorse the draft technical standards in part only, or with amendments, where the Union's interests so require, having regard to the specific procedure laid down in Articles 10 to 14 of that Regulation.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In accordance with the third subparagraph of Article 10(1) of Regulation (EU) No 1093/2010, the EBA carried out a public consultation on the draft technical standards submitted to the Commission. Consultation papers were published on the EBA website:

(i) On 11 March 2013, on a draft technical standard on the content of recovery plans. The consultation ran until 11 June 2013.

(ii) On 20 May 2013, on a draft technical standard on the minimum criteria that the competent authority is to assess as regards recovery plans and group recovery plans. The consultation ran until 20 August 2013.

(iii) On 9 July 2014, on a draft technical standard specifying the content of resolution plans and group resolution plans. The consultation closed on 9 October 2014.

(iv) On 3 October 2014, on draft technical standards specifying the conditions set out in points (a), (c), (e) and (i) of Article 23(1) of Directive 2014/59/EU with regard to financial support by a group entity in accordance with Article 19 of that Directive. The consultation closed on 4 January 2015.

(v) On 9 July 2014, on a draft technical standard specifying the circumstances in which a person is independent from the resolution authority and the institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU for the purposes of paragraph 1 of Article 36 of that Directive and of Article 74 thereof.

(vi) On 9 July 2014, on a draft technical standard specifying the list of liabilities to which the exclusion from the obligation to include the contractual term referred to in Article 55(1) of Directive 2014/59/EU applies and the contents of the contractual term required in that paragraph.

(vii) On 9 July 2014, on a draft technical standard specifying the procedures and contents relating to the notifications referred to in Article 81(1), (2) and (3) of Directive 2014/59/EU and to the notice of suspension referred to in Article 83 of that Directive.

(viii) On 9 July 2014, on a draft technical standard specifying detailed rules on setting up and operational functioning of the resolution colleges for the performance of the tasks referred to in Article 88(1) of Directive 2014/59/EU.

The EBA also invited its Banking Stakeholder Group, set up in accordance with Article 37 of Regulation No (EU) 1093/2010, to advise on the draft standards.

Together with the draft technical standards, the EBA has submitted an explanation of how the outcome of these consultations has been taken into account in the development of the final draft technical standards submitted to the Commission. In accordance with the third subparagraph of Article 10(1) of Regulation No (EU) 1093/2010, the EBA has also submitted its Impact Assessment, including its analysis of the costs and benefits, related to the draft technical standards submitted to the Commission. This analysis is available at:

https://www.eba.europa.eu/regulation-and-policy/recovery-and-resolution/draft-regulatory-technical-standards-on-the-content-of-recovery-plans (see pages 20 to 22 of the Final Draft Regulatory Technical Standards document);

https://www.eba.europa.eu/regulation-and-policy/recovery-and-resolution/draft-regulatory-technical-standards-on-the-assessment-of-recovery-plans (see page 16 of the Final Draft Regulatory Technical Standards document);

https://www.eba.europa.eu/regulation-and-policy/recovery-and-resolution/regulatory-technical-standards-on-resolution-planning, pages 24-37 of the Final Draft Regulatory Technical Standards package;

http://www.eba.europa.eu/regulation-and-policy/recovery-and-resolution/regulatory-technical-standards-rts-on-conditions-for-the-provision-of-group-financial-support, pages 15-23 of the Final Draft Regulatory Technical Standards package;

http://www.eba.europa.eu/regulation-and-policy/recovery-and-resolution/regulatory-technical-standards-on-independent-valuers, pages 14-18 of the Final Draft Regulatory Technical Standards package;

http://www.eba.europa.eu/regulation-and-policy/recovery-and-resolution/regulatory-technical-standards-on-contractual-recognition-of-bail-in, pages 19-23 of the Final Draft Regulatory Technical Standards package;

http://www.eba.europa.eu/regulation-and-policy/recovery-and-resolution/regulatory-technical-standards-on-notifications-and-notice-of-suspension, pages 12-15 of the Final Draft Regulatory Technical Standards package;

http://www.eba.europa.eu/regulation-and-policy/recovery-and-resolution/regulatory-technical-standards-on-resolution-colleges, pages 50-58 of the Final Draft Regulatory Technical Standards package.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

A. CONTENT OF RECOVERY PLANS

This Delegated Regulation specifies the content of recovery plans, detailing the content set out in Section A of the Annex to the Directive and additional information.

The Directive requires institutions to draw up and maintain recovery plans setting out options for measures to be taken by the institution to restore its financial position following a significant deterioration of its financial position. The plans must be detailed and based on realistic assumptions for a range of severe financial stress scenarios, so institutions are required to provide a strategic analysis including:

- a description of the institution or group, its core business lines and critical functions, and of its internal and external interconnectedness;
- specific recovery options designed to respond to these severe financial stress scenarios, taking into account the institution's sources of funding;
- an assessment of the impact and feasibility of the options.

The recovery plan should also contain the following additional elements:

- information on governance;
- a communication plan;
- a description of preparatory measures;
- a description of the internal escalation and decision-making process; and

- the indicators that would trigger this process to ensure a timely response to the deterioration.

B. ASSESSMENT OF RECOVERY PLANS

This Delegated Regulation sets out criteria for the assessment of recovery plans.

The Directive requires institutions to draw up and maintain recovery plans setting out options for measures to be taken by the institution to restore its financial position following a significant deterioration of its financial position. Competent authorities are required to assess whether these plans are satisfactory. Competent authorities are required to assess:

- whether the plan is complete and satisfies all the requirements of the Directive and related technical standards;

- the quality of the plan, including whether it is clear, contains relevant information, is sufficiently detailed, contains a sufficient range of options and is internally consistent; and

- the credibility of the plan, whether the recovery options identified could be implemented successfully without endangering financial stability.

C. CONTENT OF RESOLUTION PLANS AND ASSESSMENT CRITERIA

This Delegated Regulation specifies the contents of resolution plans and criteria for the assessment of resolvability.

The Directive requires resolution authorities to draw up and maintain resolution plans to ensure that authorities have all the information necessary in order to identify and ensure the continuance of critical functions. Resolution authorities are required to ensure that resolution plans contain adequate information for these purposes in at least eight categories, and meet specific requirements in each category.

The Directive further requires resolution authorities to assess the extent to which institutions or groups are resolvable. Resolution authorities are required to identify impediments to resolvability relating to structure and operations, financial resources, availability of information, legal issues, or cross-border issues.

D. CONDITIONS FOR GROUP FINANCIAL SUPPORT

This Delegated Regulation specifies the conditions applying to the authorisation of financial support to be granted from one group entity to another, which meets the conditions for early intervention. With regard to the prospect that the support redresses the receiving entity's difficulties, it will be in particular required that capital and liquidity needs of the receiving entity are expected to be covered for a sufficient period of time. Pursuant to Article 23 of the Directive, the terms of the support must be in accordance with the requirements under Article 19(7) of the Directive; they are deemed to be so if they reflect the default risk of the receiving entity, the loss given default and the relation of benefits and costs taken into account when determining the best interest under Article 19(7) of the Directive. The condition that the provision of the financial support does not jeopardise the liquidity or solvency of the providing entity should in particular require verification that, following the provision of the financial support, the providing entity can be reasonably expected not to infringe requirements on

solvency and liquidity under Regulation (EU) No 575/2013 in a way that would justify the withdrawal of the authorisation by the competent authority. When determining whether the provision of the financial support does not undermine the resolvability of the providing entity, authorities and institutions shall ensure that the provision of the financial support does not make the implementation of the resolution strategy as set out in the resolution plan substantively less feasible or less credible.

E. INDEPENDENCE OF VALUERS

This Delegated Regulation specifies the circumstances in which a person shall be regarded as independent from both the resolution authority and the institution or entity referred to in point (b), (c), or (d) of Article 1(1) of the Directive (relevant entity) for the purposes of Article 36(1) and Article 74 of the Directive.

Article 36(1) of the Directive requires resolution authorities to ensure that, prior to taking resolution action or exercising the power to write down or convert relevant capital instruments a fair, prudent and realistic valuation of the assets and liabilities of the relevant entity is carried out by a person independent from any public authority and the relevant entity. An independent person is also required to carry out a valuation for the purposes of assessing whether shareholders and creditors would have received better treatment if the relevant entity had entered into normal insolvency proceedings (Article 74 of the Directive).

The Delegated Regulation specifies the circumstances in which a person shall be deemed to be independent from the relevant public authorities and the relevant entity. In particular, the person must satisfy the requirements: (a) to have the necessary qualifications, experience, ability, knowledge and resources, (b) to be structurally separate from the relevant public authorities and the relevant entity, and (c) to have no actual or potential material interest in common or conflict with the relevant public authorities and the relevant entity.

The rules set out in the Delegated Regulation will ensure that a common approach is adopted across the Union to the assessment of persons appointed as independent valuers in accordance with the requirements of the Directive.

F. RECOGNITION OF WRITE-DOWN AND CONVERSION POWERS

This Delegated Regulation further determines the list of liabilities to which the exclusion in Article 55(1) of the Directive applies (exclusion from the requirement to include the contractual term), and the specification of the contents of the term required in that paragraph, taking into account banks' different business models.

The Directive requires Member States to ensure that their resolution authorities have available powers to write-down and convert relevant liabilities of an institution at the point of non-viability and in the course of an application of the resolution tools.

In order to support the effective application of those powers in relation to liabilities governed by the law of a third country, the Directive requires that agreements concerning related liabilities include a contractual term by which the creditor, or party to the agreement creating the liability, recognises that it may be subject to the write-down and conversion powers by a resolution authority and agrees to be bound by any reduction of the principal or outstanding amount due, conversation or cancellation as a result of an exercise of those powers.

The Delegated Regulation further determines the cases in which the requirement to include the contractual term does not apply. In particular, the requirement to include the contractual term should not apply where a statutory regime in the third country concerned or an international agreement exists which provides for an administrative or judicial procedure to ensure the recognition of the application of the write-down and conversion powers by the resolution

authority of a Member State. The delegated act makes clear that a resolution authority of a Member State may only determine that a third country law or international agreement is sufficient to set aside the obligation to include the contractual term where a minimum set of elements specified in the delegated act are identified as present.

The Delegated Regulation also specifies the minimum contents of the contractual term required to be included in relevant liabilities where no alternative, i.e. statutory mechanism, exists to secure recognition. This approach is designed to strike a balance between the need for harmonisation and the need for flexibility to take account of any issues arising in relation to a specific third country law, type of liability or arbitrage risk.

The rules set out in the Delegated Regulation will ensure that a common approach is adopted across the Union to the assessment of the situations in which the contractual term should be required to be included and the contents of the term.

G. PROCEDURE AND CONTENT OF NOTIFICATIONS

This Delegated Regulation specifies the process and content of notifications when a firm is assessed as failing or likely to fail. In the first instance, the management body of an institution has a responsibility for establishing whether the entity is failing or likely to fail and to notify the competent authority. In turn, it is the responsibility of competent authority to notify the relevant resolution authorities of the receipt of a notification from an entity and to additionally notify of any actions that the competent authority has instructed the entity to take in response to the notification that the entity is failing or likely to fail. The third type of notification envisaged occurs when either the competent or resolution authority independently perform an assessment that a firm is failing or likely and that having regard to the timing and other relevant circumstances, there is no reasonable prospect that an alternative measure would prevent the failure of the institution. This Delegated Regulation specifies a consistent information requirement for all three types of notification to enable the relevant authorities to respond promptly, irrespective of whether the assessment of failing or likely to fail has been established by the entity, the competent authority or the resolution authority.

Similarly, in the event that a resolution authority takes a resolution action, it is important that the impact and consequences of this action are clearly communicated to stakeholders. The delegated act provides a harmonised process and consistent information to affected stakeholders on the impact of resolution action. This helps to reduce uncertainty and thereby support the stabilisation of the failing institution.

H. FUNCTIONING OF RESOLUTION COLLEGES

This Delegated Regulation puts forward rules specifying the operational functioning of the resolution colleges established for the performance of the tasks referred to in paragraph 1 of Article 88 of the Directive. Those rules are organised as follows:

- Operational Organisation of Resolution Colleges;
- Resolution Planning Joint Decisions;
- Cross Border Group Resolution.

Article 50 specifies the process for performing the mapping of group's presence in other Member States or in third countries having as a starting point the results of the mapping exercise performed by the consolidating supervisor within the supervisory colleges' framework. The performance of the mapping organised by the group-level resolution authority serves as a basis for identification of members and potential observers of the resolution college.

Article 51 details the process for involving third country resolution authorities in the resolution college as observers, following the submission of a request from such authorities.

Article 52 requires the group-level resolution authority to communicate regularly with the Union parent undertaking and inform them of the establishment of the resolution college.

Article 53 notes that the group-level resolution authority should maintain contact lists and share those contact lists with the resolution college members and observers.

Article 54 sets out the elements of the written arrangements and procedures for the functioning of the resolution college.

Article 55 includes provisions requiring the group-level resolution authority to establish, communicate and update the written arrangement and procedures following specific procedure and in cooperation with the other resolution college members.

Article 56 sets provisions on resolution college meetings and activities, including frequency and requirements of members participating in the meetings as well as document circulation.

Article 57 specifies provisions on the exchange of information – specifically information exchange between the group-level resolution authority and the consolidating supervisor, the members of the resolution college, and different substructures of the resolution college. Reference is also made to the use of secure means of communication.

Article 58 covers general rules on communication, while Article 11 requires members of the resolution college to coordinate their external communication related to group resolution strategies and schemes.

Article 60 details provisions for the group-level resolution authority to regularly test operational procedures of the functioning of the resolution college in emergency situations.

Articles 61 and 62 set the steps of the joint decision on the group resolution plan and resolvability assessment, the so called joint decision timetable, which is developed by the group-level resolution authority and agreed with the resolution authorities of subsidiaries. That article also recognises possible links between that joint decision process (including its timing) and the joint decision on the assessment of the group recovery plan organised within the supervisory colleges' framework. It also envisages the update of the joint decision timetable in case substantive impediments to resolvability are identified.

Articles 63 covers the initial stages of the joint decision process where the group-level resolution authority and the resolution authorities of subsidiaries discuss the resolution strategy for the group, the information that may be available to any of the competent authorities, the information needs and the contributions expected by the resolution authorities of subsidiaries for developing the group resolution plan and performing the resolvability assessment.

Articles 64 and 65 cover the process for requesting information necessary for the development of the group resolution plan and resolvability assessment from the Union parent undertaking and transmission of that information to the other authorities by the group-level resolution authority, while in particular Article 16 includes provisions on the exact trigger of the four month period for the reach of the relevant joint decision.

Articles 66 to 72 include provisions covering all the envisaged steps of the joint decision process; meaning the development of the draft group resolution plan and draft resolvability assessment, the consultation with the relevant authorities, the discussion with the Union parent undertaking, when this is decided by the group-level resolution authority, the elements of the joint decision, the reach of the joint decision, and the communication of the joint decision to the Union parent undertaking.

Articles 73, 74 and 75 cover cases of partial disagreement, where joint decision on the group resolution plan and resolvability assessment is reached by the group-level resolution authority and some of the resolution authorities of subsidiaries, and cases where individual decisions are taken by the group-level resolution authority and the resolution authorities of subsidiaries; those articles elaborate provisions covering not only the process for communicating and sharing outcomes of individual decisions but also elements of those individual decisions.

Article 76 provides details of the events marking the suspension of the joint decision on group resolution plan and resolvability assessment and the start of the joint decision on measures to remove substantive impediments to resolvability.

Article 77 sets the steps of the joint decision on measures to remove substantive impediments to resolvability that is developed by the group-level resolution authority and agreed by the resolution authority of subsidiaries. The steps of the process and their exact timing are expected to be updated where the Union parent undertaking submits alternative measures to remedy the substantive impediments to resolvability identified.

Articles 78 and 79 cover the initial steps of the joint decision process where the group-level resolution authority, in consultation with other authorities, develops and submits to the Union parent undertaking a report on substantive impediments to resolvability, as well as the provisions covering the case where the Union parent undertaking decides to propose alternative measures to remedy those impediments.

Articles 80 to 83 cover further details of the joint decision process, meaning the elements of the draft joint decision, the process for organising the reach of this joint decision, and the communication and monitoring of the joint decision, including relevant provisions where interaction with the Union parent undertaking is envisaged.

Articles 84 and 85 cover cases of individual decisions taken by the group-level resolution authority and the resolution authorities of subsidiaries; those articles elaborate provisions covering not only the process for communicating and sharing outcomes of individual decisions but also elements of those individual decisions.

Article 86 sets the steps of the joint decision on setting minimum requirements on own funds and eligible liabilities at consolidated, parent and each subsidiary level, the so called joint decision timetable, which is developed by the group-level resolution authority and agreed with the resolution authorities of subsidiaries. That article also recognises possible links between that joint decision process (including its timing) and the joint decision on institution-specific prudential requirements organised within the supervisory colleges' framework.

Articles 87, 88 and 89 provide details of the initial steps of the process where draft proposals on minimum requirements on own funds and eligible liabilities at consolidated, parent and each subsidiary level are discussed between the group-level resolution authority, the resolution and competent authorities of subsidiaries along with a reconciliation of those proposals.

Articles 90 to 93 cover further details of the joint decision process, meaning the elements of the draft joint decision, the process for organising the reach, the communication and the monitoring of the joint decision, including relevant provisions where interaction with the Union parent undertaking is envisaged.

Articles 94, 95 and 96 cover cases of individual decisions taken by the group-level resolution authority and the resolution authorities of subsidiaries; those articles elaborate provisions covering not only the process for communicating and sharing outcomes of individual decisions but also elements of those individual decisions.

The Articles 97 to 101 cover the process for assessing the need for the group resolution scheme. Article 97 outlines the steps in this process, while the remaining articles detail how this process should take place. Article 98 details the dialogue that should take place to assess whether the resolution of the entity has a group dimension and whether the financing plan for this resolution should be based on mutualisation. Following this dialogue, Article 99 outlines the preparation of the draft assessment or draft decision by the group-level resolution authority on the need for a group resolution scheme. This is then followed by a consultation in Article 100 between the group-level resolution authority and the members of the resolution college on the communicated draft assessment or draft decision on the need for a group resolution scheme. Upon conclusion of the consultation, Article 101 covers the finalisation and communication to the members of the resolution college of the assessment or decision on the need for a group resolution scheme and the need to mutualise national financing arrangements for the financing plan. This article also specifies that where it is deemed that a group resolution scheme is needed, the group-level resolution authority may decide not to communicate its final assessment or decision and proceed to apply the procedure for preparing the group resolution scheme which is laid out in Article 102.

Articles 102 to 107 specify the process to be followed in reaching a joint decision on the group resolution scheme whereby Article 102 outlines the steps to be taken and the remaining articles elaborate the process. Article 103 requires the group-level resolution authority to prepare the group resolution scheme and to include certain elements listed in this article. The group-level resolution authority should then communicate the draft group resolution scheme to the members of the resolution college for a consultation period as outlined in Article 104. Members of the resolution college should provide their material diverging views if any within this consultation. Article 105 then specifies the preparation on the joint decision on the group resolution scheme and the communication to the resolution authorities of the entities covered by the group resolution scheme for them to provide their agreement. The finalisation of this joint decision is covered by Article 106 and the communication of the joint decision to the resolution college is detailed in Article 107.

In the event of disagreement on the joint decision on the group resolution scheme, Article 108 and 109 specify the course of action; Article 108 states that the disagreeing authority must notify the group-level resolution authority with an explanation, Article 109 notes that the non-disagreeing resolution authorities shall reach an agreement following the process outlined in Articles 106 and 107.

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supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the content of recovery plans, resolution plans and group resolution plans, the minimum criteria that the competent authority is to assess as regards recovery plans and group recovery plans, the conditions for group financial support, the requirements for independent valuers, the contractual recognition of write-down and conversion powers, the procedures and contents of notification requirements and of notice of suspension and the operational functioning of the resolution colleges

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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/EC, 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[1], and in particular Article 5(10), Article 6(8), Articles 10(9), 12(6), 15(4), 23(2), 36(14), 55(3), 82(3) and 88(7) thereof,

Whereas:

(1) The provisions in this Regulation are closely linked to each other, since they deal with the resolution framework set out by Directive 2014/59/EU from the planning stage of the recovery and resolution of an institution, through the early intervention phase, up until the moment of resolution action. To ensure coherence between those provisions, which should enter into force simultaneously and to facilitate the resolution process, there is a need for institutions, authorities and market participants, including investors that are non-Union residents, to have a comprehensive view and compact access to their obligations and rights. It is therefore desirable to include the relevant regulatory technical standards required by Directive 2014/59/EU in a single Regulation.

(2) Further to the definitions of Directive 2014/59/EU, some specific definitions to technical terms used are necessary.

(3) Uniform rules on the minimum information to be included in recovery plans should take into account but not preclude the competent authorities' powers to determine simplified obligations for certain institutions regarding the contents and details of recovery plans, in accordance with Article 4 of Directive 2014/59/EU.

(4) These uniform rules should further specify, without prejudice to any simplified obligations determined in accordance with Article 4 of Directive 2014/59/EU, the

[1] OJ L 173, 12.6.2014, p. 190.

information to be contained in an individual recovery plan and, in accordance with Article 7(5) and (6) of that Directive, in a group recovery plan.

(5) It is essential that the information included in recovery plans be adequate and specific, depending on whether the recovery plans are drawn up by institutions which are not part of a group subject to consolidated supervision pursuant to Articles 111 and 112 of Directive 2013/36/EU of the European Parliament and of the Council[2], or are individual recovery plans, as provided for in Article 7(2) of Directive 2014/59/EU, or group recovery plans, as provided for in paragraphs 5 and 6 of Article 7 of Directive 2014/59/EU.

(6) To facilitate the internal structure of the recovery plans, the information requirements should be grouped under a number of sections, some of which should be divided into subsections as set out in this Regulation.

(7) To ensure that recovery plans can effectively be implemented, if necessary, in due time, it is essential to build those plans on a sound governance structure. The recovery plans should therefore contain a description of the specific governance arrangements involved. In particular, a plan should set out how it was developed, who approved it, and how it is integrated in the overall corporate governance of the institution or the group. Where relevant, the measures taken to ensure consistency between an individual recovery plan of a subsidiary, if applicable, and the group recovery plan should be described.

(8) Recovery plans are crucial for assessing the feasibility of recovery options. Therefore, a recovery plan should contain detailed information on the decision-making process with regard to its activation as an essential element of the governance structure, based on an escalation process using indicators within the meaning of Article 9 of Directive 2014/59/EU. Since each crisis is different, the materialisation of an indicator does not automatically activate a specific recovery option or, more generally, prompt an automated framework under which a particular recovery option has to be implemented in accordance with predetermined procedural requirements. Rather, indicators should be used to indicate that an escalation process should be started, involving an analysis of the best way to address a crisis situation. Before those indicators materialize, data and benchmarks used in regular risk management should be also applied to inform the institution or group of the risk of deterioration of its financial situation and of the indicators being triggered. While such early warning signals are not indicators within the meaning of Directive 2014/59/EU and as such do not indicate entry into the recovery phase or require escalation outside the business-as-usual processes, they help to ensure consistency between the institution’s regular risk management and the monitoring of the indicators. The recovery plan should therefore contain a description of how suitable elements of the institution’s risk management are connected with the indicators.

(9) The strategic analysis should take into account international standards for recovery plans such as the Financial Stability Board’s 'Key Attributes of Effective Resolution Regimes for Financial Institutions'. According to the Key Attributes, the strategic analysis should identify the institution’s essential and systemically important functions and set out the key steps to maintaining them in recovery scenarios. Accordingly, the

[2] Directive 2013/36/EU of the European Parliament and Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.06.2013, p. 338).

strategic analysis should comprise two parts. The first part of the strategic analysis should describe the institution or the group and its core business lines and critical functions. The description of the institution or of the group should provide a general overview of the institution or of the group and of its activities, together with a detailed description of its core business lines and critical functions. In order to facilitate the assessment of recovery options such as divestments and sales of business lines, it is important to identify the legal entities in which core business lines and critical functions are located, and to analyse intra-group interconnectedness. Under Article 6(1) and (2) of Directive 2014/59/EU, institutions are required to demonstrate to the satisfaction of the competent authority that the recovery plan is reasonably likely to be implemented without causing any significant adverse effect on the financial system. In addition, Article 6(2) of Directive 2014/59/EU requires the competent authorities to evaluate the extent to which the recovery plan, or specific options within it, could be implemented without causing any significant adverse effect on the financial system. Recovery plans should therefore contain a description of external interconnectedness.

(10) The second part of the strategic analysis should identify and assess possible recovery options. Recovery options available to the institution or the group should initially be described without reference to a specific scenario of financial stress. These are a means to enhance general crisis-preparedness and assist the institution or the group in reacting flexibly to a crisis. The strategic analysis should then set out how recovery options have been tested against specific scenarios of financial stress in order to tentatively assess which recovery options would be efficient in each of these scenarios, thereby providing a practical test of the efficiency of recovery options and of the adequacy of the indicators. Recovery options should include measures which could be taken by the institution where the conditions for early intervention under Article 27 of Directive 2014/59/EU are met.

(11) Communication of the recovery plan is crucial to implementing it effectively and to avoiding adverse effects on the financial system. A recovery plan should therefore also contain a section on communication and disclosure to address both internal communication to relevant internal bodies and the institution or group's staff, and external communication.

(12) A recovery plan could imply changes to the business organisation of the institution, either to facilitate the update of the plan and its implementation in the future, to monitor indicators, or because the process has identified some impediments complicating the implementation of recovery options. Those organisational preparatory and follow-up actions to be taken by the institution or the group should be described in the recovery plan in order to facilitate effective assessment of whether its implementation is reasonably likely, and to facilitate monitoring of its implementation by the institution or the group, and by competent authorities.

(13) It is essential to specify the minimum criteria that a competent authority must take into consideration when assessing recovery plans drawn up by institutions as provided for in Article 6(2) and Article 8(1) of Directive 2014/59/EU.

(14) Article 16 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council[3] empowers the European Banking Authority (EBA) to issue guidelines to ensure the common, uniform and consistent application of Union law and requires that

[3] Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

competent authorities and financial institutions to which such guidelines are addressed make every effort to comply with such guidelines. Since Directive 2014/59/EU mandates the EBA to issue guidelines in accordance with Article 16 of Regulation (EU) No 1093/2010, to specify further certain aspects of the Directive, competent authorities should take into account in accordance with that Article, the guidelines on scenarios for recovery planning and indicators to be included in recovery plans issued by EBA by making every effort to comply with those guidelines in line with Article 16(3) of Regulation (EU) No 1093/2010.

(15) The objective of recovery planning, as set out in Directive 2014/59/EU, is to identify options to maintain or restore the viability and financial position of an institution or group when it is subject to severe stress. The criteria for assessing a recovery plan should therefore seek to ensure that the plan is appropriate to the entities it covers and that the plan and the options identified in it are viable and can be implemented in due course. The exact matters that the competent authority must assess will depend on the content and extent of the recovery plan. Uniform rules concerning the minimum criteria to be assessed should be laid down in order to take into account the ability of competent authorities to impose simplified obligations for certain institutions regarding the contents and details of recovery plans, in accordance with Article 4 of Directive 2014/59/EU.

(16) Where appropriate, additional criteria should be specified that apply to the assessment of group recovery plans in order to reflect the additional requirements set out in Directive 2014/59/EU that apply to such plans.

(17) Recovery plans should be complete and contain all information required by Directive 2014/59/EU, including elements further specified in this Regulation. The plans should also be comprehensive, including sufficient detail and a sufficient range of options for the circumstances of the entity or entities they cover.

(18) Requirements for the content of resolution plans should take account of ongoing work to coordinate these developments at a global level through the Financial Stability Board.

(19) Standards for the content of resolution plans and the assessment of resolvability should be sufficiently flexible to take account of the circumstances of the institution or group being considered, to ensure that plans are targeted and useful for the implementation of resolution strategies.

(20) Resolution authorities should assess whether liquidation under normal insolvency procedures can credibly and feasibly achieve the resolution objectives. To do this they may need to draw on the relevant expertise of deposit guarantee schemes. The assessment of whether liquidation is feasible and credible does not exclude the need to assess whether the resolution objectives will be achieved to the same extent in liquidation in national insolvency proceedings, including that of minimising reliance on extraordinary financial support.

(21) Assessment of resolvability is an iterative process and is only possible on the basis of an identified preferred resolution strategy. Resolution authorities could conclude at the end of the process that an amended or wholly different strategy is more appropriate.

(22) Variants of the preferred strategy should also be considered in order to take account of circumstances which prevent implementation of the preferred resolution strategy, such as where a single point of entry strategy using the bail-in tool could no longer be feasible if losses exceed the eligible liabilities issued by the parent entity.

(23) Standards for group resolution plans and assessment of resolvability should allow a resolution strategy based on either of the stylised approaches provided by the Financial Stability Board and referred to in recital (80) of Directive 2014/59/EU. Namely, resolution strategies can involve a single resolution authority applying resolution tools at the holding or parent company level of a group (single point of entry), involve more than one resolution authority applying resolution tools in respect of more than one regional or functional sub-group or entity in a cross-border group (multiple point of entry); or can combine aspects of both.

(24) In any case, resolution planning and assessment of resolvability should take account of any supporting action required from resolution authorities other than those taking resolution action, for instance through provision of information, continued provision of critical shared services, or decisions to refrain from taking resolution action, taking into account the right of other resolution authorities to act on their own initiative if necessary to achieve domestic financial stability in the absence of effective action by lead resolution authorities.

(25) Section C of the Annex to Directive 2014/59/EU specifies a number of matters which must be considered in assessing the resolvability of an institution or group, but is not exhaustive and requires further specification.

(26) Pursuant to Article 32 of Directive 2014/59/EU, resolution action should only be taken when winding up an institution or group under normal insolvency proceedings would not be in the public interest, and therefore the assessment of resolvability should consider such winding up as an alternative to resolution action.

(27) Article 23(1) of Directive 2014/59/EU sets out various conditions which must be fulfilled to permit a parent institution, a Union parent institution and certain other entities in a group and their subsidiaries in other Member States or third countries that are institutions or financial institutions, on the basis of a group financial support agreement provided in Chapter III of that Directive, to provide financial support in the form of a loan, of provision of guarantees or of assets for use as collateral to another group entity that meets the conditions for early intervention. Pursuant to Article 25(2) of Directive 2014/59/EU, the competent authority of the group entity providing the support may prohibit or restrict the provision of the financial support.

(28) Having regard to the financial difficulties of the receiving entity and the condition that there must be a reasonable prospect that the financial support redresses these financial difficulties, a thorough analysis of capital and liquidity needs of the receiving entity and an analysis of the internal and external causes for the financial difficulties and of past, present and expected market conditions should be undertaken. This analysis should include measures planned for addressing the causes of the distress of the receiving entity which can efficiently support the restoration of its financial situation.

(29) The assessment of the various conditions falls in the responsibility of the entity providing the support (providing entity) and of the competent authority responsible for the providing institution. The assessment should take into account the risk of potential adverse developments. For a comprehensive assessment of the conditions that relate to the providing entity, the competent authority responsible for the providing entity should also take into account information and assessments provided by the competent authority responsible for the group entity receiving the financial support.

(30) The condition that the terms of the provision are in accordance with Article 19(7) of Directive 2014/59/EU should take into account the default risk of the receiving entity

and the loss for the providing entity given a default of the receiving entity, based on a comparison of the situations following the support or, respectively, without granting it, and on full disclosure of the relevant information. Those terms should reflect the best interest of the providing entity as described in point (b) of Article 19(7), which stipulates that any direct or indirect benefits may be taken into account that may accrue to a party as a result of the provision of the financial support. This should be verified by a thorough analysis of costs and benefits for the providing entity and the group as a whole in these two scenarios.

(31) Financial support agreements and the provision of the group financial support may improve the resolvability of a group, for example if they are in line with the loss absorption mechanism provided by the resolution strategy. However, they may also impair the feasibility of the implementation of the chosen resolution strategy, for example if that strategy envisages a separation of different parts of the group. Therefore the assessment of the impact on resolvability should be based on the resolvability assessment, on the individual resolution plan, and, where applicable, on the group resolution plan as determined by the joint decision of resolution colleges.

(32) When carrying out their valuation tasks for the purposes of Article 36, including Article 49(3), and Article 74 of Directive 2014/59/EU it is necessary to ensure that independent valuers are not being influenced, and are not perceived to be influenced, by public authorities, including the resolution authority, or by the institution or entity referred to in point (b), (c) or (d) of Article 1(1) of that Directive.

(33) Accordingly, uniform rules should apply to determine the circumstances in which a person shall be considered independent from the relevant public authorities, including the resolution authority, and from the institution or the entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU. Those rules should contain requirements as to the expertise and resources of the person concerned and their relation to the relevant public authorities, including the resolution authority, and the institution or the entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU.

(34) Independence can be reinforced by conditions ensuring the adequacy of the expertise and resources of the independent valuer. More specifically it should be ensured that the independent valuer possesses the necessary qualifications, knowledge and expertise in all relevant subjects, in particular valuation and accounting in the context of the banking industry. It should also be ensured that the independent valuer holds, or has access to, sufficient human and technical resources to carry out the valuation. For that purpose, it could be appropriate to access sufficient human and technical resources by engaging staff or contractors from other valuation specialists or law firms or other sources, in relation to the carrying out of the valuation. Where staff or contractors are engaged to support the conduct of the valution they should be subject to conflicts of interest verification so as to ensure that independence is not undermined. In all cases the independent valuer should remain responsible for the outcome of the valuation.

(35) Furthermore it should be ensured that the independent valuer is also capable of carrying out the valuation effectively without undue reliance on any relevant public authority, including the resolution authority, and the institution or entity referred to in point (b), (c) or (d) or Article 1(1) of Directive 2014/59/EU. However, the provision of instructions or guidance necessary to support the conduct of the valuation, for example in relation to the methodology provided pursuant to the Union legislation in the field of valuation for purposes relating to resolution, should not be seen as constituting

undue reliance where such instructions are, or guidance is, considered necessary to support the conduct of the valuation. In addition, the provision of assistance, such as the provision by the institution or entity concerned of systems, financial statements, regulatory reports, market data, other records or other assistance to the independent valuer should not be prevented where, in the assessment of the appointing authority or such other authority as may be empowered to conduct this task in the Member State concerned, this is considered necessary to support the conduct of the valuation. In accordance with any procedures which may be put in place, the provision of instructions, guidance and other forms of support should be agreed on a case-by-case or pooled basis.

(36) The payment of reasonable remuneration and the reimbursement of reasonable expenses in connection with the valuation should not be prevented.

(37) Independence can be endangered if valuation is performed by a person who is employed by or affiliated to any relevant public authority, including the resolution authority, and the institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU even in cases where full structural separation to address threats such as self-review, self-interest, advocacy, familiarity, trust or intimidation has been established. Therefore, there is a need to ensure that appropriate legal separation is secured such that the independent valuer is not an employee or contractor of, nor in a group with, any relevant public authority, including the resolution authority, or the institution or entity concerned.

(38) It is also necessary to ensure that the independent valuer does not have any material interest in common or in conflict with any relevant public authority, including the resolution authority, and the institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU, including its senior management, controlling shareholders, group entities and significant creditors, as could be the case when the independent valuer is a significant creditor of the institution or entity concerned. Similarly, personal relationships could represent a material interest.

(39) Accordingly, the appointing authority, or such other authority as may be empowered to conduct the task in the Member State concerned, should assess whether any material common or conflicting interests are present. For the purposes of this assessment the independent valuer should notify the appointing authority, or such other authority as may be empowered to conduct this task in the Member State concerned, of any actual or potential interest which the person considers may, in the assessment of that authority, be considered to amount to a material interest and provide any information as may be reasonably requested by the authority to inform this assessment. In the case of legal persons, independence should be assessed by reference to the company or partnership as a whole but taking account of any structural separation and other arrangements that may be put in place to differentiate between those staff members who may be involved in the valuation and other staff members, to address threats such as self-review, self-interest, advocacy, familiarity, trust or intimidation. If the significance of those threats compared to the safeguards applied is such that the person's independence is compromised, the company or partnership should not be the independent valuer.

(40) A statutory auditor who has completed an audit of the institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU in the year preceding the independent valuer's assessment for eligibility to act as valuer should not be regarded as independent under any circumstances. As regards other audit or valuation

services provided to the institution or entity concerned in the years immediately preceding the date on which independence is to be assessed, these should also be assumed to present a material interest in common or in conflict unless it is demonstrated to the satisfaction of the appointing authority, or such other authority as may be empowered to conduct this task in the Member State concerned, that this is not the case having regard to all relevant circumstances, including any structural separation or other arrangements in place.

(41) Following appointment it is essential that the independent valuer maintains policies and procedures in accordance with the applicable codes of ethics and professional standards to identify any actual or potential interest which the valuer considers may amount to a material interest in common or in conflict. The appointing authority, or such other authority as may be identified in the Member State concerned, should be notified immediately of any actual or potential interests identified and should consider whether these amount to a material interest in which case the independent valuer's appointment should be terminated and a new valuer appointed.

(42) Directive 2014/59/EU requires Member States to confer on their resolution authorities a range of powers, including the write-down and conversion powers as defined in point (66) of Article 2(1) of that Directive which can be applied independently of, or in conjunction with, resolution action.

(43) It is important to ensure that the write-down and conversion powers can be applied in relation to all liabilities that are not excluded by Article 44(2) of Directive 2014/59/EU. For liabilities governed by the law of a third country, other than those falling within the list of liabilities to which the exclusion in Article 55(1) of Directive 2014/59/EU applies, a contractual term should be included to support the application of the write-down and conversion powers to such liabilities.

(44) The contractual terms referred to in Article 55(1) of Directive 2014/59/EU should be included in agreements creating a liability to which that Article applies, entered into after the date of application of the provisions adopted to transpose Section 5 of Chapter IV of Title IV of Directive 2014/59/EU.

(45) In particular, the contractual term referred to in Article 55(1) of Directive 2014/59/EU should be included in relevant agreements concerning a liability which, on creation, is not fully secured or is fully secured but the contractual terms governing the liability do not oblige the debtor to maintain collateral that would fully secure the liability on a continuous basis in compliance with regulatory requirements specified in Union law or the equivalent law in third countries.

(46) For relevant agreements entered into before the date of application of the provisions adopted to transpose Section 5 of Chapter IV of Title IV of Directive 2014/59/EU the contractual term should be included where liabilities are created under that agreement after the transposition date.

(47) In addition, for relevant agreements entered into before the date of application of the provisions adopted to transpose Section 5 of Chapter IV of Title IV of Directive 2014/59/EU, material amendments which affect the substantive rights and obligations of a party to the agreement should entail the obligation to insert the contractual term referred to in Article 55(1) of Directive 2014/59/EU. Non-material amendments which do not affect the substantive rights and obligations of a party to a relevant agreement should not be sufficient to trigger the requirement to include the contractual term; in all other cases the contractual term should be introduced.

(48) In order to allow for an appropriate level of convergence whilst ensuring that differences in legal systems or those arising from the nature or form of liability can be taken into account by resolution authorities, institutions and entities referred to in points (b), (c) and (d) of Article 1(1) of Directive 2014/59/EU it is appropriate to lay down the mandatory contents for the contractual term.

(49) With a view to achieving a uniform approach across the Union ensuring effective coordination among the relevant authorities and to enabling the resolution authority to take adequately informed and swift resolution decisions, this Regulation sets out the procedures and content of the notifications laid down in paragraphs 1, 2 and 3 of Article 81 of Directive 2014/59/EU.

(50) Notifications should be effected by secure electronic communications, reflecting the urgency and importance of the subject matter. To promote coordination between the parties, prior oral communication and subsequent confirmation of receipt are contemplated in the process.

(51) Notifications should provide adequate information to the recipient to promptly perform its tasks, specific content is therefore laid down as regards the notification to be submitted to the competent authority by the management body of an institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU when it is failing or likely to fail. Similarly, the communication of such notification by the competent authority to the resolution authority should contain that information enabling the latter to fulfil its tasks. Specific content requirements should also be provided with regard to the notification of the assessment that an institution or entity referred to in point (b), (c) or (d) of Article 1(1) is failing or likely to fail, when such assessment is initiated by the competent authority or the resolution authority respectively. In such case, the notification should also specify the relevant conditions set out in points (a) and (b) of Article 32(1) of Directive 2014/59/EU.

(52) With a view to providing a harmonised approach across the Union to adequately inform stakeholders of resolution actions, this Regulation sets out the procedures and the content of the notice summarising the effects of the resolution action, including the decision to suspend or restrict the exercise of certain rights in accordance with Articles 69, 70 and 71 of Directive 2014/59/EU.

(53) This Regulation lays down the content of such notice, having regard to some critical information to be conveyed to retail and non-retail customers and creditors; in respect of the elements that are not specified in this Regulation the notice should be consistent with the broader communication strategy developed as part of the resolution plan and addressed in Chapter Two, Sections I and II of this Regulation. It is necessary to adopt regulatory technical standards to set out uniform, detailed rules in respect of the establishment of and procedures to be followed by resolution colleges when performing the functions and tasks set out in Article 88 of Directive 2014/59/EU due to the high impact that group resolution planning and resolution may have in more than one Member States.

(54) While establishing a resolution college, it is necessary to avoid duplication of work already conducted by the consolidating supervisor and the supervisory college. It is also important to ensure that this work will be adjusted to respond to the needs of the functioning of the college. In particular, it is appropriate to ensure that the group-level resolution authority takes into account, updates and adjusts accordingly all relevant work conducted by the consolidating supervisor in the context of the supervisory college, in particular with regard to the identification of relevant group entities and

consequently the authorities which should be invited to become members or observes of the college ("mapping process").

(55) The reference to other groups or colleges performing the same tasks and functions in accordance with Article 88(6) of Directive 2014/59/EU should be understood as including, but not limited to, crisis management groups established under the common principles and approaches developed by the Financial Stability Board and the G20. It is, therefore, important to provide that group-level resolution authorities, when assessing their obligation to establish a resolution college, also assess whether these other groups or colleges operate in accordance with the provisions of this Regulation.

(56) The involvement of third-country resolution authorities as observers in the resolution college is already foreseen in Article 88(3) of Directive 2014/59/EU. It is therefore necessary to provide for the process of organising their participation in the resolution college and of their involvement in the various college tasks.

(57) To achieve effective resolution planning, there is a need for efficient and timely interaction and cooperation between the resolution college and the banking group, in particular between the group-level resolution authority and the Union parent undertaking. To that end, the group-level resolution authority is expected to inform the Union parent undertaking on the establishment of the resolution college, its composition and on any changes in this composition. Efficient and timely interaction and cooperation between the group-level resolution authority and the Union parent undertaking should not, however, disregard the speed of action required to preserve financial stability or the preparatory or preventive nature and the complex economic assessment required in resolution planning.

(58) The resolution college's written arrangements and procedures should include the necessary organisational provisions to ensure efficient and effective decision-making processes. In particular, the resolution college should recognise the need to establish flexible substructures within the resolution college to carry out college functions and ensure that members are able to contribute in an appropriate manner across each of the college's functions. In particular, where it is deemed appropriate that authorities, other than the college members, participate in the college as observers, it is necessary that the group-level resolution authority ensures that the terms and conditions of the participation are set out in the written arrangements and that they are not more favourable than those set out in this Regulation for the members of the college.

(59) The resolution college's written arrangements and procedures should also include the necessary operational provisions to ensure that the college enables the resolution authorities to both coordinate their input to the supervisory college and to organize the analysis, consideration and evaluation of the input that the resolution authorities receive from the supervisory college. Written arrangements should, therefore, ideally include a process of communication between the supervisory and the resolution college, most importantly between the group-level resolution authority and the consolidating supervisor. Written arrangements should also lay down the processes to be followed within the resolution college for reaching a common understanding, in all cases where coordination is needed in practice but a joint decision is not required in accordance with Directive 2014/59/EC.

(60) The group-level resolution authority should have access to all information necessary for the performance of its tasks and responsibilities and should act as the coordinator for the collection and dissemination of information received from any college member,

or from any group entity subject to the confidentiality provisions and provisions covering the exchange of confidential information laid down in Directive 2014/59/EU.

(61) To ensure that operational procedures are effective to address a case of emergency, the group-level resolution authority should undertake tests for the functioning of the resolution college and should, where deemed appropriate, be enabled to involve the Union parent undertaking in the performance of these tests.

(62) Timely and realistic planning for all joint decision processes is essential. Every resolution authority involved in these processes should provide to the group-level resolution authority its contribution in the respective joint decision in a timely and efficient way and in accordance with the relevant joint decision timetables.

(63) It is necessary to ensure that joint decisions are taken swiftly and in a timely manner. This is particularly important for decisions on resolution but is also relevant for resolution planning. At the same time, it should be ensured that all authorities involved in the joint decision making process are provided with adequate time to express their views. To strike the proper balance between these two objectives, the group-level resolution authority should be empowered to submit its draft proposal to the other authorities involved in the process setting at the same time an adequate time-limit after the lapse of which the consent of the non-objecting authorities to that proposal should be assumed. When setting the relevant time limit, the group level resolution authority should take due account of the actual time frame of the decision making process as set out by provisions of the law or as previously determined by the college itself.

(64) To ensure that an effective process is established, the group-level resolution authority should have the ultimate responsibility for determining the sequencing of the steps to be followed. The steps for reaching any joint decision should be set out, recognising that some of these steps may be performed in parallel and others sequentially.

(65) In accordance with Article 13(3) of Directive 2014/59/EU, group resolution plans should be reviewed and updated at least annually. There is however a need to ensure that group resolution plans are also reviewed and updated on an ad hoc basis, if such a need arises either due to information received by the supervisory college or on the resolution college's own initiative.

(66) To enhance transparency of the functioning of the resolution colleges, uniform conditions of communication of the joint decisions to the Union parent undertaking and to the other entities of the relevant group should be clearly set out in this Regulation. For reasons of ensuring comparability of processes and outcomes, thus achieving convergence, it is necessary to clearly set out uniform rules on the process and documentation required for the joint decision making within the resolution colleges.

(67) Coordination of individual decisions made by the group-level resolution authority and the resolution authorities of subsidiaries in the absence of a joint decision should also be ensured in order for the resolution college to be able to perform its role as provided for in Article 88(1) of Directive 2014/59/EU. Thus, it is necessary to set out the process of the functioning of the college as a framework for the group-level resolution authority and the other authorities to strive for efficient and workable group resolution planning even in the absence of joint decisions.

(68) In identifying whether there is a need for a group resolution scheme, the relevant resolution authorities participating in the resolution college should consider, in line with Articles 91 and 92 of Directive 2014/59/EU, whether there is a group dimension

to the resolution at hand. For that purpose the group-level resolution authority should endeavour to identify all entities of the group which are or could be impacted in case that an entity of the group or the Union parent undertaking meets the conditions under Article 32 or 33 of Directive 2014/59/EU.

(69) In order to ensure optimal conditions for a resolution, there is a need to work efficiently and effectively within a short timeframe. Therefore, , it is important to provide that the resolution college, when considering the need for a group resolution scheme, should also consider the need to mutualise national financial arrangements. In particular, with regard to financing plans and the application of Directive 2014/59/EU, the resolution college should take into account whether mutualisation of national financial arrangements is necessary. In the absence of mutualisation, the content and process of the financing plan should be adjusted accordingly. To further ensure efficiency, the group-level resolution authority should be allowed to substitute its final positive assessment on the need for a group resolution scheme with its proposal on that scheme.

(70) The group resolution scheme should, to the extent possible and appropriate, take into account and follow the group resolution plan unless resolution authorities assess, taking into account the circumstances of the case, that the resolution objectives will be achieved more effectively by taking actions which are not provided for in the resolution plan.

(71) There is a need for all those impacted by the resolution of an institution to have a complete understanding of the views and actions of a resolution authority which disagrees with the joint decision on the group resolution scheme for coordination purposes. Therefore any disagreeing authority should provide clear reasoning to the group-level resolution authority for their disagreement.

(72) This Regulation is based on the draft regulatory technical standards submitted by the European Banking Authority (EBA) to the Commission.

(73) For the purposes of the regulatory technical standards on the content of resolution plans for institutions that are not part of a group subject to consolidated supervision pursuant to Articles 111 and 112 of Directive 2013/36/EU of the European Parliament and Council [4], and the contents of resolution plans required for groups, in accordance, respectively, with Articles 10 and 13 of Directive 2014/59/EU, and for the regulatory technical standards relating to the criteria to be examined for the assessment of the resolvability of institutions or groups, provided for, respectively in Article 15(4) and Article 16(2) of the Directive 2014/59/EU, the EBA has consulted the European Systemic Risk Board.

(74) The EBA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits, and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council,

[4] Directive 2013/36/EU of the European Parliament and Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.06.2013, p. 338).

HAS ADOPTED THIS REGULATION:

Chapter ONE
COMMON PROVISIONS AND RECOVERY PLANS

SECTION I
COMMON PROVISIONS

Article 1
Subject matter

This Regulation further specifies:

(1) the information to be contained in an individual recovery plan and, in accordance with paragraphs 5 and 6 of Article 7 of Directive 2014/59/EU, in a group recovery plan;

(2) the minimum criteria that the competent authority is to assess with regard to both individual and group recovery plans, in accordance with paragraph 8 of Article 6 of Directive 2014/59/EU;

(3) the contents of resolution plans required for institutions that are not part of a group subject to consolidated supervision pursuant to Articles 111 and 112 of Directive 2013/36/EU, and the contents of resolution plans required for groups, in accordance, respectively, with Articles 10 and 13 of Directive 2014/59/EU;

(4) the matters and criteria to be examined for the assessment of the resolvability of institutions or groups, provided for, respectively in paragraph 4 of Article 15, and paragraph 2 of Article 16 of the Directive 2014/59/EU;

(5) the conditions set out in points (a), (c), (e) and (i) of Article 23(1) of Directive 2014/59/EU with regard to financial support by a group entity in accordance with Article 19 of that Directive;

(6) the circumstances in which a person is independent from the resolution authority and the institution or entity referred to in point (b), (c) or (d) of paragraph 1 of Article 1 of Directive 2014/59/EU for the purposes of paragraph 1 of Article 36 of that Directive and of Article 74 thereof;

(7) the list of liabilities to which the exclusion from the obligation to include the contractual term referred to in paragraph 1 of Article 55 of Directive 2014/59/EU applies and the contents of the contractual term required in that paragraph;

(8) the procedures and contents relating to the notifications referred to in paragraph 1, 2 and 3 of Article 81 of Directive 2014/59/EU and to the notice of suspension referred to in Article 83 of that Directive;

(9) detailed rules on setting up and operational functioning of the resolution colleges for the performance of the tasks referred to in paragraph 1 of Article 88 of Directive 2014/59/EU.

Points (1), (2), (3) and (4) above are subject to the application of any simplified obligations determined in accordance with Article 4 of Directive 2014/59/EU.

Article 2
Definitions

For the purposes of this Regulation, the following definitions apply:

(1) 'individual recovery plan' means any of the following:

(a) a recovery plan drawn up in accordance with Article 5(1) of Directive 2014/59/EU by an institution that is not part of a group subject to consolidated supervision pursuant to Articles 111 and 112 of Directive 2013/36/EU;

(b) a recovery plan drawn up in accordance with Article 7(2) of Directive 2014/59/EU by a subsidiary of an EU parent undertaking;

(2) 'resolution strategy' means a set of resolution actions provided for in a resolution plan or group resolution plan;

(3) 'preferred resolution strategy' a resolution strategy capable of best achieving the resolution objectives set out in Article 31 of Directive 2014/59/EU given the structure and the business model of the institution or group, and the resolution regimes applicable to legal entities in a group;

(4) 'qualifying eligible liabilities' means eligible liabilities which satisfy the conditions set forth in Article 45(4) of Directive 2014/59/EU in order to be included in the amount of own funds and eligible liabilities referred to in Article 45(1) of that Directive;

(5) 'single point of entry (SPE)' means a resolution strategy involving the application of resolution powers by a single resolution authority at the level of a single parent undertaking or of a single institution subject to consolidated supervision;

(6) 'multiple point of entry (MPE)' means a resolution strategy involving the application of resolution powers by two or more resolution authorities to regional or functional sub-groups or entities of a group;

(7) 'control' means control as defined in point (37) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council[5];

(8) 'qualifying holding' means a qualifying holding as defined in point (36) of Article 4(1) of Regulation (EU) No 575/2013.

SECTION II
CONTENT OF RECOVERY PLANS

Article 3
Information to be included in a recovery plan

A recovery plan shall include at least the following items:

(1) a summary of the key elements of the recovery plan, in accordance with Article 4;

(2) information on governance, in accordance with Article 5;

(3) a strategic analysis, in accordance with Articles 6 to 12;

[5] Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

(4) a communication and disclosure plan, in accordance with Article 14;

(5) an analysis of preparatory measures, in accordance with Article 15.

Article 4
Summary of the key elements of the recovery plan

(1) The summary of the key elements of the recovery plan shall cover summaries of each of the following:

(a) the recovery plan's information on governance;

(b) the recovery plan's strategic analysis, including a summary of overall recovery capacity referred to in Article 12(3);

(c) any material changes to the institution, group or recovery plan since the previous version of the recovery plan submitted to the competent authority;

(d) the recovery plan's communication and disclosure plan;

(e) the preparatory measures set out in the recovery plan.

(2) For the purposes of Sections II and III of Chapter One of this Regulation, material change means any change which could impact the ability of an institution or of an EU parent undertaking or one or more of its subsidiaries to implement a recovery plan or to implement one or more recovery options contained in a recovery plan.

Article 5
Governance

The information on governance shall contain at least a detailed description of the following matters:

(1) how the recovery plan was developed, including at least:

(a) the role and function of persons responsible for preparing, implementing and updating each section of the plan;

(b) the identity of the person who has overall responsibility for keeping the recovery plan up-to-date and a description of the process to be used for updating the recovery plan to respond to any material changes affecting the institution or group or their environment;

(c) a description of how the plan is integrated in the corporate governance of the institution or group and in the overall risk management framework;

(d) if the considered entity is part of a group, a description of the measures and arrangements taken within the group to ensure the coordination and consistency of recovery options at the level of the group and of individual subsidiaries;

(2) the policies and procedures governing approval of the recovery plan, including at least:

(a) a statement whether the recovery plan has been reviewed by an internal audit function, external auditor or risk committee;

(b) confirmation that the recovery plan has been assessed and approved by the management body of the institution or EU parent undertaking responsible for submitting the plan;

(3) the conditions and procedures necessary to ensure the timely implementation of recovery options, including, at least:

(a) a description of the internal escalation and decision-making process that applies when the indicators have been met, to consider and determine which recovery option may need to be applied in reaction to the situation of financial stress that has materialised, including at least:

(i) the role and function of persons involved in this process, including a description of their responsibilities, or, where a committee is involved in the process, the role, the responsibilities and function of committee members;

(ii) the procedures that need to be followed;

(iii) the time limit for the decision on taking recovery options and when and how the relevant competent authorities will be informed of the fact that the indicators have been met;

(b) a detailed description of the indicators, reflecting possible vulnerabilities, weaknesses or threats to, as a minimum, the capital position, liquidity situation, profitability and risk profile of the entity or entities covered in the recovery plan;

(4) the plan's consistency with the general risk management framework of the institution or group, including a description of the relevant benchmarks (early warning signals) used as part of the institution's or group's regular internal risk management process, where these benchmarks are useful to inform the management that the indicators could potentially be reached;

(5) management information systems, including a description of arrangements in place to ensure that the information necessary to implement the recovery options is available for decision-making in stressed conditions in a reliable and timely way.

Article 6
Strategic analysis

(1) The strategic analysis shall identify core business lines and critical functions and set out the key steps to maintaining those core business lines and critical functions in a situation of financial stress.

(2) The strategic analysis shall include at least the following subsections:

(a) a description of the entity or entities covered by the recovery plan, as set out in Article 7;

(b) a description of recovery options, as set out in Articles 8 to 12.

Article 7
The description of entities covered by the recovery plan

(1) The subsection of the strategic analysis describing the entity or entities covered by the recovery plan shall comprise the following information:

(a) a general characterisation of the entity or entities covered by the recovery plan, including:

(i) a description of their overall global business and risk strategy;

(ii) their business model and business plan, including a list of the main jurisdictions in which they are active, including through a legal entity or a branch meeting the conditions set out in paragraph 2;

(iii) their core business lines and critical functions;

(iv) the process and metrics for identifying their core business lines and critical functions;

(b) a mapping of the core business lines and critical functions to the legal entities and branches meeting the conditions set out in paragraph 2;

(c) a detailed description of the legal and financial structures of the entity or entities covered by the plan, including an explanation of intra-group interconnectedness with respect to any legal entities or branches meeting the conditions set out in paragraph 2 and in particular a description of the following:

(i) all existing material intra-group exposures and funding relationships, capital flows within the entity or entities covered by the recovery plan, intra-group guarantees that are in place and intra-group guarantees that are expected to be in place when recovery action is required;

(ii) legal interconnectedness, which shall cover material legally binding agreements between entities of a group including, for example, the existence of domination agreements and profit and loss transfer agreements;

(iii) operational interconnectedness, which concerns functions that are centralised in one legal entity or branch and are important for the functioning of other legal entities, branches or the group, in particular centralised information technology functions, treasury functions, risk functions or administrative functions;

(iv) any existing group financial support agreements concluded in accordance with Article 19 of Directive 2014/59/EU including the parties to the agreement, the form of the financial support and the conditions associated with the provision of the financial support;

(d) a description of external interconnectedness including at least:

(i) significant exposures and liabilities to main counterparties;

(ii) significant financial products and services which are provided by the entity or entities covered by the recovery plan to other financial market participants;

(iii) significant services which third parties provide to the entity or entities covered by the recovery plan;

(2) For the purposes of points (b) and (c) of paragraph 1, the reference to legal entities or branches shall be understood as a reference to legal entities or branches which:

(a) substantially contribute to the profit of the entity or entities covered by the recovery plan or to their funding, or hold an important share of their assets, liabilities or capital;

(b) perform key commercial activities;

(c) centrally perform key operational, risk or administrative functions;

(d) bear substantial risks that could, in a worst-case scenario, jeopardise the viability of the institution or group;

(e) could not be disposed of or liquidated without likely triggering a major risk for the institution or group as a whole;

(f) are important for the financial stability of at least one of the Member States in which they have their registered offices or operate.

Article 8
Recovery options

(1) The sub section on recovery options shall include a list of all recovery options and a description of each option, as set out in Articles 9 to 12.

(2) The subsection on recovery options shall set out a range of recovery options designed to respond to financial stress scenarios and which could reasonably be expected to contribute to maintaining or restoring the viability and financial position of the entity or entities covered by the recovery plan.

(3) Each recovery option shall be described in a way that enables the competent authority to assess its impact and feasibility.

(4) Recovery options shall include measures which are extraordinary in nature as well as measures that could also be taken in the course of the normal business of the entity or entities covered by the recovery plan.

(5) Recovery options shall not be excluded for the sole reason that they would require a change to the current nature of the business of that entity or those entities.

Article 9
Actions, arrangements and measures under recovery options

(1) Each recovery option shall indicate at least the following:

(a) a range of capital and liquidity actions required to maintain or restore the viability and financial position of the entity or entities covered by the recovery

plan which have as their primary aim ensuring the viability of critical functions and core business lines;

(b) arrangements and measures the primary aim of which is to conserve or restore the institution's own funds or the group's consolidated own funds through external recapitalisations and internal measures to improve the capital position of the entity or entities covered by the recovery plan;

(c) arrangements and measures to ensure that the entity or entities covered by the recovery plan have adequate access to contingency funding sources to ensure that they can carry on their operations and meet their obligations as they fall due;

(d) arrangements and measures to reduce risk and leverage, or to restructure business lines including, where appropriate, an analysis of possible material divestment of assets, legal entities, or business lines;

(e) arrangements and measures the primary aim of which is to achieve a voluntary restructuring of liabilities, without triggering an event of default, termination, downgrade or similar.

For the purposes of point (c), the measures shall include external measures and, where appropriate, measures that aim at reorganising the available liquidity within the group. The contingency funding sources shall include potential liquidity sources, an assessment of available collateral and an assessment of the possibility to transfer liquidity across group entities and business lines.

(2) Where a recovery option does not include the actions, arrangements or measures set out in points (a) to (e) of paragraph 1, the subsection on recovery options shall contain a demonstration that those actions, arrangements or measures have been adequately considered by the institution, the Union parent undertaking or the subsidiary which drew up and submitted the plan.

Article 10
Impact assessment

Each recovery option shall contain an impact assessment that shall include, in particular, a detailed description of the processes for determining the value and marketability of the core business lines, operations and assets of the entity or entities to which the recovery option relates, and at least the following elements:

(1) a financial and operational impact assessment which sets out the expected impact on solvency, liquidity, funding positions, profitability and operations of the entity or entities covered by the recovery plan; where relevant, the assessment shall clearly identify the different entities of the group which may be affected by the option or involved in its implementation;

(2) an assessment of external impact and systemic consequences which sets out the expected impact on critical functions performed by the entity or entities, covered by the recovery plan, and the impact on shareholders, on customers, in particular depositors and retail investors, on counterparties and, where applicable, on the rest of the group;

(3) the valuation assumptions and all other assumptions made for the purpose of the assessments in points (1) and (2), including assumptions about the marketability of assets or the behaviour of other financial institutions.

Article 11
Feasibility assessment

(1) Each recovery option shall contain a feasibility assessment, which shall include at least:

(a) an assessment of the risk associated with the recovery option, drawing on any experience of executing the recovery option or an equivalent measure;

(b) a detailed analysis and description of any material impediment to the effective and timely execution of the plan and a description of whether and how such impediments could be overcome;

(c) where applicable, an analysis of potential impediments to the effective implementation of the recovery option which result from the structure of the group or of intra-group arrangements, including whether there are substantial practical or legal impediments to the prompt transfer of own funds or the repayment of liabilities or assets within the group;

(d) solutions to the potential impediments identified in points (b) and (c).

(2) For the purposes of paragraph 1, a material impediment shall include any factor that could potentially negatively affect the timely execution of the recovery option including, in particular, legal, operational, business, financial, and reputational risks such as any risk of a credit rating downgrade.

Article 12
Continuity of operations

(1) Each recovery option shall contain an assessment of how the continuity of operations will be ensured when implementing that option.

(2) That assessment shall include an analysis of internal operations (for example, information technology systems, suppliers and human resources operations) and of the access of the entity or entities covered by the recovery plan to market infrastructure (for example, clearing and settlement facilities and payment systems). In particular, the assessment of operational contingency shall take into account:

(a) any arrangements and measures necessary to maintain continuous access to relevant financial markets infrastructure;

(b) any arrangements and measures necessary to maintain the continuous functioning of the operational processes of the entity or entities covered by the recovery plan, including infrastructure and IT services;

(c) the expected timeframe for the implementation and effectiveness of the recovery option;

(d) the effectiveness of the recovery option, and the adequacy of indicators in a range of scenarios of financial stress which assesses the impact of each of these scenarios on the entity or entities covered by the recovery plan, in particular on their capital, liquidity, profitability, risk profile and operations.

(3) That assessment shall identify the recovery option which could be appropriate in a specific scenario, the potential impact of the recovery option, its feasibility, including the potential impediments to its implementation, and the timeframe required for its implementation.

On the basis of this information, the assessment shall describe the overall recovery capacity of the entity or entities covered by the recovery plan, being the extent to which the recovery options allow that entity or those entities to recover in a range of scenarios of severe macroeconomic and financial stress.

Article 13
Cross references

Where information set out in Article 7 has been submitted to resolution authorities pursuant to Article 11 of Directive 2014/59/EU, competent authorities may choose to accept cross references to that information as sufficient for meeting the requirement in Article 7 if they do not compromise the completeness and quality of the recovery plan, as required by Section III of Chapter One of this Regulation.

Article 14
Communication and disclosure plan

(1) The communication and disclosure plan shall cover the following matters in detail:

(a) internal communication, in particular to staff, works councils or other staff representatives;

(b) external communication, in particular to shareholders and other investors, competent authorities, counterparties, financial markets, financial market infrastructure, depositors and the public, as appropriate;

(c) effective proposals for managing any potential negative market reactions.

(2) A recovery plan shall include, at least, an analysis of how the communication and disclosure plan would be implemented when one or more of the arrangements or measures set out in the recovery plan are implemented.

(3) The communication and disclosure plan shall adequately consider any specific communication needs for individual recovery options.

Article 15
Preparatory measures

(1) A recovery plan shall include an analysis of any preparatory measures that the entity or entities covered by it have taken or which are necessary to facilitate the implementation of the recovery plan or to improve its effectiveness together with a timeline for implementing those measures.

(2) Such preparatory measures shall include any measures necessary to overcome impediments to the effective implementation of recovery options which have been identified in the recovery plan.

SECTION III
ASSESSMENT OF RECOVERY PLANS

Article 16
Completeness of recovery plans

The competent authority shall assess the extent to which a recovery plan satisfies the requirements set out in Article 5 or Article 7 of Directive 2014/59/EU, respectively, and shall review the completeness of the plan based on the following:

(1) whether the plan covers all the information listed in Section A of the Annex to Directive 2014/59/EU as further specified in Chapter One, Section I of this Regulation;

(2) whether the plan provides information that is up to date, also with respect to any material changes to the entity or entities, in particular changes to their legal or organisational structure or their business or financial situation since the last submission of the plan, in accordance with Article 5(2) of Directive 2014/59/EU;

(3) where applicable, whether the plan includes an analysis of how and when the entity or entities covered by the plan may apply, in the conditions addressed by the plan, for the use of central bank facilities and identify those assets which would be expected to qualify as collateral;

(4) whether the plan adequately reflects an appropriate range of scenarios of severe macroeconomic and financial stress relevant to the specific conditions of the entity or entities that the plan covers, taking into account the guidelines issued by the EBA in accordance with Article 5(7) of Directive 2014/59/EU that further specify the range of scenarios to be used in recovery plans, by making every effort to comply with them in line with Article 16(3) of Regulation (EU) No 1093/2010;

(5) whether the plan contains a framework of indicators which identifies the points at which appropriate actions referred to in the plan may be taken;

(6) whether the information referred to in points (1) to (5) is provided in relation to the group as a whole;

(7) whether the plan includes, where applicable, arrangements for intra-group financial support adopted pursuant to an agreement for group financial support that has been concluded in accordance with Chapter III of Directive 2014/59/EU;

(8) whether for each of the scenarios of severe macroeconomic and financial stress which is reflected in the plan in accordance with Article 7(6) of Directive 2014/59/EU, the plan identifies whether there are:

   (a) obstacles to implementing recovery measures within the group, including at the level of individual entities covered by the plan;

   (b) substantial practical or legal impediments to the prompt transfer of own funds or the repayment of liabilities or assets within the group.

Article 17
Quality of recovery plans

In assessing the requirements and criteria set out in Article 5 and Article 7 of Directive 2014/59/EU, as applicable, the competent authority shall review the quality of a recovery plan based on the following:

(1) the clarity of the plan is considered to be established if:

(a) the plan is self-explanatory and is drafted in clear and understandable language;

(b) definitions and descriptions are clear and consistent throughout the plan;

(c) assumptions and valuations made within the plan are explained;

(d) references to documents not contained in the plan and any annexes supplement the plan in a way which substantially contributes to identifying options to maintain or restore the financial strength and viability of the entity or entities that it covers;

(2) the relevance of information contained in the plan is considered to be established if such information focuses on identifying options to maintain or restore the financial strength and viability of the institution or group;

(3) the comprehensiveness of the recovery plan is considered to be established if, taking into account in particular the nature of the business of the entity or entities covered by the plan and their size and interconnectedness to other institutions and groups and to the financial system in general:

(a) the plan provides a sufficient level of detail concerning the information required to be included in recovery plans pursuant to Articles 5 and 7 of Directive 2014/59/EU;

(b) the plan contains a sufficiently wide range of recovery options and indicators, taking into account the guidelines issued by the EBA in accordance with Article 9(2) of Directive 2014/59/EU that further specify the indicators to be included in recovery plans, by making every effort to comply with them in line with Article 16(3) of Regulation (EU) No 1093/2010;

(4) the internal consistency of the plan is considered to be established:

(a) in the case of an individual recovery plan, if there is internal consistency of the plan itself;

(b) in the case of a group recovery plan, if there is internal consistency of the group plan itself;

(c) where plans have been required for subsidiaries on an individual basis pursuant to Article 7(2) of Directive 2014/59/EU, there is internal consistency between these plans and the group recovery plan.

Article 18

Implementation of the arrangements proposed in the recovery plans

(1) When assessing the extent to which the recovery plan satisfies the criterion set out in point (a) of Article 6(2) of Directive 2014/59/EU, the competent authority shall review the following:

(a) the level of integration and consistency of the plan with the general corporate governance and the internal processes of the entity or entities to which the plan applies and its/their risk management framework;

(b) whether the plan contains a sufficient number of plausible and viable recovery options which make it reasonably likely that the institution or group would be able to counter different scenarios of financial distress quickly and effectively;

(c) whether recovery options included in the plan set out actions which effectively address the scenarios of severe macroeconomic and financial stress reflected in accordance with Article 5(6) of Directive 2014/59/EU;

(d) whether the timeline for implementing the options is realistic and is taken into account in the procedures designed to ensure implementation of recovery actions;

(e) the level of the institution's or group's preparedness to redress the situation of financial stress, as determined in particular by assessing whether the preparatory measures necessary have been adequately identified and, where appropriate, those measures have been implemented or a plan to implement them has been prepared;

(f) the adequacy of the range of scenarios of severe macroeconomic and financial stress against which the plan has been tested;

(g) the adequacy of the processes for testing the plan against the scenarios referred to in point (f) and the extent to which the analysis of recovery options and indicators in each scenario is verified by that testing;

(h) whether the assumptions and valuations made within the plan and each recovery option are realistic and plausible.

(2) The plausibility of each recovery option set out in the plan as referred to in point (b) of paragraph 1 shall be assessed taking into account all of the following elements:

(a) the extent to which its implementation is within the institution's or group's control and the extent to which it would rely on action by third parties;

(b) whether the plan includes a sufficiently wide range of recovery options and appropriate indicators, conditions and procedures to ensure timely implementation of these options;

(c) the extent to which the plan considers reasonably foreseeable impacts of the implementation of the proposed recovery option on the institution or group;

(d) whether the plan and in particular the recovery options would be likely to maintain the viability of the institution or group and restore its financial soundness;

(e) if applicable, the extent to which the institution or group, or competitors with similar characteristics, have managed a previous episode of financial stress with similar characteristics to the scenario being considered by using the recovery options described, in particular as regards timely implementation of recovery options and, in the case of a group recovery plan, the coordination of recovery options within the group.

Article 19
Recovery options

When assessing the extent to which the recovery plan satisfies the criterion set out in point (b) of Article 6(2) of Directive 2014/59/EU, the competent authority shall review the following:

(1) whether it is reasonably likely that the plan and individual recovery options can be implemented in a timely and effective manner even in situations of severe macroeconomic or financial stress;

(2) whether it is reasonably likely that the plan and particular recovery options can be implemented to an extent which sufficiently achieves their objectives without any significant adverse effect on the financial system;

(3) whether the range of recovery options sufficiently reduces the risk that obstacles to implementing those options or adverse systemic effects arise due to the recovery actions of other institutions or groups being taken at the same time;

(4) the extent to which the recovery options may conflict with those of institutions or groups which have similar vulnerabilities, for example due to their similar business models, strategies or scope of activity, if the options were implemented at the same time;

(5) the extent to which the implementation of recovery options by several institutions or groups at the same time is likely to negatively affect the impact and feasibility of those options.

Article 20
Specific requirements for group recovery plans

When assessing the extent to which a group recovery plan satisfies the criteria set out in Article 7 (4) and (6) of Directive 2014/59/EU, the competent authority shall review the following:

(1) the extent to which the plan can stabilise the group as a whole and any institution of the group, in particular taking into account:

(a) the availability of recovery options at the group level to restore where necessary the financial position of a subsidiary, without disturbing the group's financial soundness;

(b) whether, following the implementation of a particular recovery option, the group as a whole, and any institution within the group which would be intended to continue to carry on business under that recovery option, would still have a viable business model;

(c) the extent to which arrangements included in the plan ensure the coordination and consistency of measures to be taken at the level of the parent undertaking or of an institution subject to consolidated supervision pursuant to Chapter 3 of Title VII of Directive 2013/36/EU, or at the level of individual institutions, respectively. The extent to which governance processes included in the plan take into account the governance structure of individual subsidiaries and any relevant legal restrictions shall be reviewed in particular;

(2) the extent to which the plan provides solutions to overcome any obstacles to the implementation of recovery measures within the group which are identified in relation to a scenario provided for in Article 5(6) of Directive 2014/59/EU; if the obstacles cannot be overcome, the extent to which alternative recovery measures could achieve the same objectives;

(3) the extent to which the plan provides solutions to overcome any substantial practical or legal impediments to a prompt transfer of own funds or the repayment of liabilities or assets within the group which are identified; if the impediments cannot be overcome, the extent to which alternative recovery options could achieve the same objectives.

Article 21
Nature of the entity or entities being assessed

When assessing the overall credibility of a recovery plan in accordance with Articles 18, 19 and 20, the competent authority shall take into account the nature of the business of the entity or entities covered by the plan, their size and their interconnectedness to other institutions and groups and to the financial system in general.

Chapter TWO
RESOLUTION PLANS

SECTION I
CONTENT OF RESOLUTION PLANS

Article 22
Categories of information to be included in resolution plans

A resolution plan shall contain at least the elements laid down in points (1) to (8) of this Article, including all information required under Articles 10 and 12 of Directive 2014/59/EU and any additional information necessary to enable the delivery of the resolution strategy:

(1) a summary of the plan, including a description of the institution or group and a summary of items referred to in points (2) to (8);

(2) a description of the resolution strategy considered in the plan, including:

(a) identification of the different resolution actions foreseen under the plan;

(b) identification of the legal entity or entities to which resolution actions would be applied;

(c) identification of any critical functions or core business lines which will be maintained and any which are expected to be separated from other functions;

(d) an estimation of the timeframe for executing each material aspect of the plan, as required pursuant to point (d) of Article 10 (7) of Directive 2014/59/EU;

(e) a detailed description of any variants of the preferred resolution strategy considered to address circumstances in which the preferred strategy cannot be implemented;

(f) a description of the decision-making process for implementing the resolution strategy, including the timeframe required for decisions;

(g) for group resolution plans, arrangements for cooperation and coordination between resolution and other relevant authorities of Member States in which group entities are located or have significant branches and relevant authorities of third countries in which group entities are located, in lines with the written arrangements and procedure as set out in Chapter Six, Section I;

(3) a description of the information, and the arrangements for the provision of this information, necessary in order to effectively implement the resolution strategy, including at least:

(a) a description of the information, and processes for ensuring availability in an appropriate timescale of that information required for the purposes of valuation, in particular pursuant to Articles 36 and 49 of Directive 2014/59/EU, and market ability, in particular pursuant to the marketing requirements for the sale of business and bridge bank tools;

(b) a mapping of critical functions and core business lines to legal entities which identifies in particular the critical functions and core business lines carried out by entities subject to resolution actions and the critical functions or core

business lines spread across legal entities which would be separated by implementation of the resolution strategy;

(c) a description of the arrangements for the sharing of information between resolution authorities and other relevant authorities, including where relevant authorities in other Member States or in third countries, in accordance with Article 90 of Directive 2014/59/EU;

(d) a detailed description of arrangements for ensuring that information pursuant to Article 11 of Directive 2014/59/EU is up to date and available to resolution authorities when required;

(4) a description of arrangements to ensure operational continuity of access to critical functions during resolution, including at least the description of:

(a) critical shared systems and operations which need to be continued to maintain continuity of critical functions and arrangements for ensuring the contractual and operational robustness of their provision in resolution;

(b) internal and external interdependencies which are critical to the maintenance of operational continuity;

(c) arrangements for ensuring any access to payment systems or other financial infrastructures necessary to maintain critical functions, including an assessment of the portability of client positions;

(5) a description of the financing requirements and financing sources necessary for the implementation of the resolution strategy foreseen in the plan, including at least:

(a) the description of financing, funding and liquidity requirements implied by the resolution strategy;

(b) the description of potential sources of resolution funding, including the terms of financing, preconditions for their use, the timing of their availability, the entities to which they may provide financing, and any collateral requirements;

(c) where relevant, a description and analysis of how and when an institution or group may apply, in the conditions addressed by the resolution plan, for the use of central bank facilities (other than emergency liquidity assistance or other assistance on non-standard terms) in resolution, including identification of available collateral;

(d) for groups, the description of any principles agreed for sharing responsibility for financing between sources of funding in different jurisdictions, including between sources of funding in different member states pursuant to point (f) of Article 12(3) of Directive 2014/59/EU;

(6) plans for communication with critical stakeholder groups, including at least:

(a) the management, owners ,and staff of the institution or group including procedures for consultation with staff and, where applicable, dialogue with social partners in the resolution process, and an assessment of the impact of the plan on employees;

(b) customers, media and the general public;

(c) depositors, shareholders, bondholders, counterparties, financial market infrastructures, and other affected market participants;

(d) any administrative or judicial bodies from whom approval or authorisation critical to implementing the resolution strategy is required;

(e) any advisors required to implement the resolution strategy;

(7) the conclusions of the assessment of resolvability, including at least:

(a) whether or not the institution or group is currently resolvable;

(b) a summary of the conclusions of the liquidation assessment required in point (a) of Article 23(1);

(c) a detailed description of any impediments to resolvability identified, and of any measures proposed by the institution or group or required by the resolution authority to address or remove those impediments;

(d) a quantified assessment of any change to minimum requirements for eligible liabilities, or the appropriate location of eligible liabilities, that is required to remove or address impediments to resolvability, taking into account the criteria specified in Article 45 (6) of Directive 2014/59/EU and further specified in the delegated acts adopted pursuant to Article 45 (2) of Directive 2014/59/EU;

(8) any opinion expressed by the institution or group in relation to the resolution plan.

SECTION II
ASSESSMENT OF RESOLVABILITY

Article 23
Stages of assessment

(1) Resolution authorities shall assess resolvability based on the following consecutive stages:

(a) assessment of the feasibility and credibility of the liquidation of the institution or group under normal insolvency proceedings in accordance with Article 24;

(b) selection of a preferred resolution strategy for assessment in accordance with Article 25;

(c) assessment of the feasibility of the selected resolution strategy in accordance with Articles 26 to 31;

(d) assessment of the credibility of the selected resolution strategy in accordance with Article 32.

(2) Where the resolution authority considers that it is clear that institutions or groups pose similar risks to the financial system or that the circumstances in which their liquidation is unlikely to be feasible are similar, that resolution authority may conduct the assessment of the feasibility and credibility of the liquidation of those institutions or groups in a similar or identical manner.

The types of institutions referred to in the first subparagraph may in particular be determined in accordance with the criteria referred to in Article 98(1)(j) of Directive 2013/36/EU.

(3) Where a resolution authority concludes that it may not be feasible or credible to wind up the institution or group entities under normal insolvency proceedings, or that

resolution action may otherwise be necessary in the public interest because winding up under normal insolvency proceedings would not meet the resolution objectives to the same extent, it shall identify a preferred resolution strategy which is appropriate for the institution or group on the basis of information provided by the institution or group pursuant to Article 11 of Directive 2014/59/EU and the criteria set out in this Regulation. To the extent necessary, it shall also identify variant strategies to address circumstances in which the strategy would not be feasible or credible.

(4) The assessments of the feasibility and credibility of the preferred resolution strategy shall include assessment of any variant strategies proposed as part of that strategy.

(5) Resolution authorities shall request from the institution or group in accordance with Article 11 of Directive 2014/59/EU such additional information as is necessary to carry out the assessments of the preferred and variant strategies.

(6) Where appropriate, a resolution authority shall revise the preferred resolution strategy or consider alternative strategies on the basis of a completed assessment of feasibility and of the credibility of a preferred resolution strategy referred to in paragraph 4.

(7) Where a resolution authority revises the preferred resolution strategy it shall assess the feasibility and the credibility of that revised preferred resolution strategy in accordance with Articles 26 and 27 respectively.

Article 24

Feasibility and credibility of liquidation under normal insolvency proceedings

(1) Resolution authorities shall assess the feasibility and credibility of liquidation of the institution or group under normal insolvency proceedings, as well as the impact that liquidation would have in the reliance on extraordinary public financial support as compared to resolution.

(2) When assessing the credibility of liquidation, resolution authorities shall consider the likely impact of the liquidation of the institution or group on the financial systems of any Member State or of the Union to ensure the continuity of access to critical functions carried out by the institution or group and achieving the resolution objectives of Article 31 of Directive 2014/59/EU. For this purpose, resolution authorities shall take into account the functions performed by the institution or group and assess whether liquidation would be likely to have a material adverse impact on any of the following:

(a) financial market functioning and market confidence;

(b) financial market infrastructures, in particular:

(i) whether the sudden cessation of activities would constrain the normal functioning of financial market infrastructures in a manner which negatively impacts the financial system as a whole;

(ii) whether and to what extent financial market infrastructures could serve as contagion channels in the liquidation process;

(c) other financial institutions, in particular:

(i) whether liquidation would raise the funding costs of or reduce the availability of funding to other financial institutions in a manner which presents a risk to financial stability;

(ii) the risk of direct and indirect contagion and macroeconomic feedback effects;

(d) the real economy and in particular the availability of critical financial services.

(3) If the resolution authority concludes that liquidation is credible, it shall assess the feasibility of liquidation.

(4) For this purpose resolution authorities shall consider whether the institution's or group's systems are able to provide the information required by the relevant deposit guarantee schemes for the purposes of providing payment to covered deposits in the amounts and timeframes specified in Directive 2014/49/EU of the European Parliament and of the Council[6], or where relevant in accordance with equivalent third country deposit guarantee schemes, including on covered deposit balances.

Resolution authorities shall also assess whether the institution or the group has the capability required to support the deposit guarantee schemes' operations, in particular by distinguishing between covered and non-covered balances on deposit accounts.

Article 25
Identification of a resolution strategy

(1) Resolution authorities shall assess whether a candidate resolution strategy is appropriate to achieve the resolution objectives given the structure and business model of the institution or group, and the resolution regimes applicable to legal entities in a group. A resolution action may be taken in the public interest if it is necessary for the achievement of and is proportionate to one or more of the resolution objectives and winding up of the institution under normal insolvency proceedings would not meet those resolution objectives to the same extent.

(2) In particular for groups, resolution authorities shall assess whether it would be more appropriate to apply a single point of entry or a multiple point of entry strategy.

(3) For these purposes resolution authorities shall consider at least the following matters:

(a) what resolution tools would be used under the preferred resolution strategy and whether those resolution tools are available for legal entities to which the resolution strategy proposes to apply them;

(b) the amount of qualifying eligible liabilities under the proposed resolution strategy, the risk of not contributing to loss absorption or recapitalisation, and the legal entities issuing those qualifying eligible liabilities, taking into account that:

(i) single point of entry is more likely to be appropriate if sufficient externally issued eligible liabilities, or liabilities expected to contribute to loss absorption and recapitalisation under the

[6] Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (O.J. L 173 of 12.6.2014, 149).

proposed resolution strategy are issued by the top parent or group holding company;

(ii) multiple point of entry is more likely to be appropriate if the group's eligible liabilities or liabilities expected to contribute to loss absorption and recapitalisation under the proposed resolution strategy are issued by more than one entity or regional or functional sub-group in the group which would be resolved;

(c) the contractual or other arrangements in place for losses to be transferred between legal entities in a group;

(d) the operational structure and business model of the institution or group, and in particular whether it is highly integrated or has a decentralised structure with a high degree of separation between different parts of the institution or group, taking into account that:

(i) single point of entry is more likely to be appropriate if a group operates in a highly integrated manner, including by having centralised liquidity management, risk management, treasury functions, or IT and other critical shared services;

(ii) multiple point of entry is more likely to be appropriate if a group's operations are divided into two or more clearly identifiable subgroups, each of which is financially, legally or operationally independent from other parts of the group, and any critical operational dependencies on other parts of the group are based on robust arrangements that ensure their continued operation in the event of resolution;

(e) the enforceability of resolution tools which would be applied, in particular in third countries;

(f) whether the resolution strategy requires supporting action by other authorities, in particular in third countries, or requires such authorities to refrain from independent resolution actions; and whether any such actions are feasible and credible for those authorities.

(4) Resolution authorities shall assess whether variants of the resolution strategy are necessary to address scenarios or circumstances where the resolution strategy cannot be feasibly and credibly implemented.

(5) Resolution authorities shall consider the extent to which any variant strategy is likely to achieve the resolution objectives and in particular ensure the continuity of critical functions.

Measures to remove impediments to variants of the resolution strategy shall only be implemented if they do not impair the feasible and credible implementation of the preferred resolution strategy.

Article 26
Assessment of feasibility of a resolution strategy

(1) Resolution authorities shall assess whether it is feasible to apply the selected resolution strategy effectively in an appropriate timeframe and shall identify potential impediments to the implementation of the selected resolution strategy.

(2) Resolution authorities shall consider impediments to the short-term stabilisation of the institution or group. Resolution authorities shall also consider any foreseeable impediments to a business reorganization which is required pursuant to Article 52 of Directive 2014/59/EU or otherwise likely to be required if the resolution strategy envisages all or part of the institution or group being restored to long-term viability.

(3) Impediments shall be classified in at least the following categories:

(a) structure and operations;

(b) financial resources;

(c) information;

(d) cross-border issues;

(e) legal issues.

Article 27
Assessment of feasibility: structure and operations

Resolution authorities shall consider at least the following issues in assessing whether there are potential impediments to resolution related to the structure and operations of the institution or group:

(1) matters addressed in points 1 to 7, 16, 18 and 19 of Section C of the Annex to Directive 2014/59/EU;

(2) dependencies of material entities and core business lines on infrastructure, information technology, treasury or finance functions, employees or other critical shared services;

(3) whether governance, control, and risk management arrangements are consistent with any planned changes to the structure of the institution or group;

(4) whether the legal and franchise structure of the institution or group is consistent with any planned changes to the business structure of the institution or group;

(5) whether appropriate resolution tools are available with respect to each legal entity as required to deliver the resolution strategy.

Article 28
Assessment of feasibility: financial resources

Resolution authorities shall consider at least the following issues in assessing whether there are potential impediments to resolution related to financial resources:

(1) matters addressed in points 13, 14, 15 and 17 of Section C of the Annex to Directive 2014/59/EU;

(2) the need to identify and quantify the amount of any liabilities which are likely under the preferred resolution strategy not to contributing to loss absorption or recapitalisation, considering at a minimum the following factors:

(i) maturity;

(ii) subordination ranking;

(iii) the types of holders of the instrument, or the instrument's transferability;

(iv) legal impediments to loss absorbency such as lack of recognition of resolution tools under foreign law or existence of set-off rights;

(v) other factors creating risk that the liabilities would be exempted from absorbing losses in resolution;

(vi) the amount and issuing legal entities of qualifying eligible liabilities or other liabilities which would absorb losses;

(3) the size of funding needs in the run-up to and during resolution, the availability of sources of funding, and impediments to the transfer of funds as required within the institution or group;

(4) whether appropriate arrangements are specified for losses to be transferred to legal entities to which resolution tools would be applied from other group companies, including where relevant an assessment of the amount and loss-absorbency of intragroup funding.

Article 29
Assessment of feasibility: information

Resolution authorities shall consider at least the following issues in assessing whether there are potential impediments to resolution related to information:

(1) matters addressed in points 8 to 12 of Section C of the Annex to Directive 2014/59/EU;

(2) the capability of the institution or group to provide information on the amount, and location within the group, of assets which would be expected to qualify as collateral for central bank facilities;

(3) the capability of the institution or group to provide information to carry out a valuation to determine the amount of write-down or recapitalisation required.

Article 30
Assessment of feasibility: cross-border issues

Resolution authorities shall consider at least the following issues in assessing whether there are potential impediments to resolution related to cross-border issues:

(1) matters addressed in point 20 of Section C of the Annex to Directive 2014/59/EU;

(2) existence of adequate processes for coordination and communication and assurances on actions to be taken between home and host authorities, including in third countries, to enable delivery of the resolution strategy;

(3) whether law in relevant home and host jurisdictions overrides contractual termination rights in financial contracts that are triggered solely by the failure and resolution of an affiliated company.

Article 31
Assessment of feasibility: other potential impediments

The following legal issues shall be considered in assessing potential impediments to resolution:

(1) whether requirements for regulatory approvals or authorisations necessary to deliver the resolution strategy can be met in a timely manner;

(2) whether significant contractual documentation permits termination of contracts on entry into resolution;

(3) whether contractual obligations which cannot be disapplied by the resolution authority prohibit any transfer of assets and/or liabilities envisaged in the resolution strategy.

Article 32
Assessment of credibility of a resolution strategy

(1) After assessing the feasibility of the selected resolution strategy, resolution authorities shall assess its credibility, taking into consideration the likely impact of resolution on the financial systems and real economies of any Member State or of the Union, with a view to ensuring the continuity of critical functions carried out by the institution or group. The assessment shall include evaluation of matters addressed in points 21 to 28 of Section C of the Annex to Directive 2014/59/EU.

(2) In conducting this assessment, resolution authorities shall consider the likely impact of the implementation of the resolution strategy on the financial systems of any Member State or of the Union. For this purpose, resolution authorities shall take into account the functions performed by the institution or group and assess whether implementation of the resolution strategy would be likely to have a material adverse impact on any of the following:

(a) financial market functioning, and in particular market confidence;

(b) financial market infrastructures, and in particular:

(i) whether the sudden cessation of activities would constrain the normal functioning of financial market infrastructures in a manner which negatively impacts the financial system as a whole;

(ii) whether and to what extent financial market infrastructures could serve as contagion channels in the liquidation process;

(c) other financial institutions, and in particular:

(i) whether liquidation would raise the funding costs of or reduce the availability of funding to other financial institutions in a manner which presents a risk to financial stability;

(ii) the risk of direct and indirect contagion and macroeconomic feedback effects;

(d) the real economy and in particular on the availability of financial services.

Chapter THREE
INTRA GROUP FINANCIAL SUPPORT

Article 33
Prospect to redress financial difficulties

(1) The condition of a reasonable prospect that the support provided significantly redresses the financial difficulties of the group entity receiving the financial support ('receiving entity') shall be considered as being met, where such prospect of redress is supported by the following elements:

(a) the capital and liquidity needs of the receiving entity identified by a description of the capital and liquidity situation of the receiving entity and a projection of its capital and liquidity needs are covered for a sufficient period of time, taking into account all other relevant financial sources from which those needs could be met, the timescale required to redress the financial difficulties and the term of the support;

(b) the analysis of the financial situation and of the internal and external causes for the financial difficulties, in particular of the business model and the risk management of the receiving entity, and of past, present and expected market conditions does not contradict the prospect of redress;

(c) an action plan describing measures for the redress of the financial situation of the receiving entity, including where necessary a revision of its business model and risk management;

(d) the underlying assumptions in the descriptions and projections mentioned in points (a), (b) and (c) are coherent and plausible and take into account the stressed condition of the receiving entity, the current market conditions and potential adverse developments.

(2) When assessing the condition referred to in paragraph 1, the competent authority referred to in Article 25(2) of Directive 2014/59/EU shall take into account information and assessments provided by the competent authority responsible for the receiving entity.

Article 34
Terms of the support

(1) The terms, including consideration, for providing the financial support shall be deemed to be in compliance with Article 19(7) of Directive 2014/59/EU, if the following conditions are met:

(a) the terms adequately reflect:

(i) the default risk of the receiving entity;

(ii) the seniority of the claim;

(iii) the expected loss for the group entity providing the support ('providing entity') in the event of a default of the receiving entity;

(iv) in case of a loan or committed facility, the maturity profile, based on a full disclosure of all relevant and up-to-date information by

the receiving entity and further information available to the providing entity;

(b) the terms reflect the best interest of the providing entity in accordance with Article 19(7) of Directive 2014/59/EU and the relation of benefits, risks and costs taken into account when determining the best interest, including direct or indirect benefits that may accrue to the providing entity as a result of the provision of financial support and of the benefits for the group from this provision.

For the purposes of point (a)(iv), an anticipated temporary impact on market prices arising from events external to the group does not need to be taken into account, if a plausible projection of the market situation supports the assumption that the extent of this impact and its duration do not jeopardise the ability of the receiving entity to meet all of its liabilities as they fall due.

(2) The assessment of the conditions referred to in points (a) and (b) of paragraph 1 shall be based on a comparative analysis of the default risk of the receiving entity for each of the cases if the support is or is not provided.

The analysis of the default risk shall be based on the elements set out in Article 33. This analysis is without prejudice to considering, for the purpose of the assessment of the relation of benefits, risks and costs on a case-by-case basis and at the discretion of the competent authority responsible for the providing entity, further elements that the providing entity would consider in a credit assessment when deciding on granting a loan on the basis of all information available to the providing entity.

(3) The assessment shall include potential damage to franchise, refinancing and reputation and benefits from an efficient use and fungibility of the group's capital resources and its refinancing conditions.

To the extent possible, the benefits and costs taken into account in determining the best interest shall be quantified in monetary terms. In addition, the discount granted to the receiving entity compared to market terms shall be quantified, including in relation to haircuts on collateral or interest rates.

(4) When assessing the best interest, any binding commitments in the financial support agreement sustaining the assumptions on the future business model and risk management of the receiving entity shall be taken into account.

(5) The competent authority shall take into account information and assessments provided by the competent authority responsible for the receiving entity.

Article 35
Liquidity and solvency of the providing entity

(1) Subject to the condition specified in point (g) of Article 23(1) of Directive 2014/59/EU, the provision of the financial support shall be considered not to jeopardise the liquidity or solvency of the providing entity if, following the provision of the financial support:

(a) the assets of the providing entity can be reasonably expected to be at all times higher than its liabilities;

(b) the providing entity can be reasonably expected to comply with the following:

(i) to be able to pay all of its liabilities as they fall due;

(ii) not to infringe the requirements on solvency and liquidity under Directive 2013/36/EU of the European Parliament and of the Council and Regulation (EU) No 575/2013 of the European Parliament and of the Council[7] in a way that would justify the withdrawal of the authorisation by the competent authority.

(2) The assessment shall take into account the default risk of the receiving entity and the loss for the providing entity resulting from the default of the receiving entity also having regard to a potential adverse development. The assessment shall comply with the appropriate prudential requirements of proper risk management for the providing entity.

Article 36
Resolvability of the providing entity

(1) The provision of the financial support shall be considered not to undermine the resolvability of the providing entity, if the provision of the financial support does not make the implementation of the resolution strategy for the providing entity as set out in the resolution plan substantively less feasible or less credible, in accordance with the assessment under Articles 15 and 16 of Directive 2014/59/EU.

That assessment shall take into account in particular the impact of the provision of the financial support on:

(a) the potential absorption of losses within the group after the resolution conditions have been met;

(b) the interconnectedness of the providing entity with the receiving entity;

(c) the risk of contagion within the group;

(d) the group's complexity increased by the provision of the financial support;

(e) the capital and liquidity situation of the providing entity.

(2) If providing entities are not fully informed about a preferred resolution strategy, they shall perform the assessment referred to in paragraph 1 on the basis of the information available to them about the resolution plan.

(3) The competent authorities and resolution authorities responsible for the providing entity shall cooperate closely in determining the impact of the group financial support on the resolvability of the providing entity.

[7] Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, (OJ L 176, 27.6.2013, p. 1).

Chapter FOUR
INDEPENDENCE OF VALUERS

Article 37
Definitions

For the purposes of this Chapter, the following definitions apply:

(1) ‘appointing authority’ means the legal or natural person responsible for selecting and appointing the independent valuer for the purposes of conducting the valuation referred to in Article 36(1) or Article 74(1) of Directive 2014/59/EU;

(2) ‘relevant entity’ means an institution or an entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU whose assets and liabilities are to be valued pursuant to Article 36 or 74 of Directive 2014/59/EU;

(3) ‘relevant public authority’ means the appointing authority, the resolution authority or the authorities referred to in points (a) to (h) of Article 83(2) of Directive 2014/59/EU, and the first authority referred to in point (i) of Article 83(2) of Directive 2014/59/EU.

Article 38
Elements of independence

A legal or natural person may be appointed as a valuer. The valuer shall be deemed to be independent from any relevant public authority and the relevant entity where all the following conditions are met:

(1) the valuer possesses the qualifications, experience, ability, knowledge and resources required and can carry out the valuation effectively without undue reliance on any relevant public authority or the relevant entity in accordance with Article 39;

(2) the valuer is legally separated from the relevant public authorities and the relevant entity in accordance with Article 40;

(3) the valuer has no material common or conflicting interest within the meaning of Article 41.

Article 39
Qualifications, experience, ability, knowledge and resources

(1) The independent valuer shall possess the necessary qualifications, experience, ability and knowledge in all matters considered relevant by the appointing authority.

(2) The independent valuer shall hold, or have access to, such human and technical resources as the appointing authority considers appropriate to carry out the valuation. The assessment of adequacy of resources shall take into account the nature, size and complexity of the valuation to be performed.

(3) In relation to the conduct of the valuation the independent valuer shall not:

   (a) seek nor take instructions or guidance from any relevant public authority or the relevant entity;

(b) seek nor accept financial or other advantages from any relevant public authority or the relevant entity.

(4) Paragraph 3 shall not prevent:

(a) the provision of instructions, guidance, premises, technical equipment or other forms of support where, in the assessment of the appointing authority, or such other authority as may be empowered to conduct this task in the Member State concerned, this is considered necessary for achieving the goals of the valuation;

(b) the payment to the independent valuer of such remuneration and expenses as are reasonable in connection with the conduct of the valuation.

Article 40
Structural separation

(1) The independent valuer shall be a person separate from any relevant public authority, including the resolution authority, and the relevant entity.

(2) For the purposes of paragraph 1, the following requirements shall apply:

(a) in relation to natural persons, the independent valuer shall not be an employee or contractor of any relevant public authority or the relevant entity;

(b) in relation to legal persons, the independent valuer shall not belong to the same group of companies as any relevant public authority or the relevant entity.

Article 41
Material common or conflicting interests

(1) The independent valuer shall not have an actual or potential material interest in common or in conflict with any relevant public authority or the relevant entity.

(2) For the purposes of paragraph 1 an actual or potential interest shall be deemed material whenever, in the assessment of the appointing authority or such other authority as may be empowered to perform this task in the Member State concerned, it could influence, or be reasonably perceived to influence, the independent valuer's judgement in carrying out the valuation.

(3) For the purposes of paragraph 1 interests in common or in conflict with at least the following parties shall be relevant:

(a) the senior management and the members of the management body of the relevant entity;

(b) the legal or natural persons who control or have a qualifying holding in the relevant entity;

(c) the creditors identified by the appointing authority, or such other authority as may be empowered to perform this task in the Member State concerned, to be significant on the basis of the information available to the appointing authority or such other authority as may be empowered to perform this task in the Member State concerned;

(d) each group entity.

(4) For the purposes of paragraph 1 at least the following matters shall be relevant:

(a) the provision by the independent valuer of services, including the past provision of services, to the relevant entity and the persons referred to in paragraph 3, and in particular the link between those services and the elements relevant for the valuation;

(b) personal and financial relationships between the independent valuer and the relevant entity and the persons referred to in paragraph 3;

(c) investments or other material financial interests of the independent valuer;

(d) in relation to legal persons, any structural separation or other arrangments that shall be put in place to address any threats to independence such as self-review, self-interest, advocacy, familiarity, trust or intimidation, including arrangements to differentiate between those staff members who may be involved in the valuation and other staff members.

(5) Without prejudice to paragraphs 3 and 4, a person shall be deemed to have an actual material interest in common or in conflict with the relevant entity where the independent valuer, in the year preceding the date on which that person's eligibility to act as independent valuer is assessed, has completed a statutory audit of the relevant entity pursuant to Directive 2006/46/EC of the European Parliament and of the Council[8].

(6) Any person considered for the position of independent valuer, or appointed as an independent valuer shall:

(a) maintain, in accordance with any applicable codes of ethics and professional standards, policies and procedures to identify any actual or potential interest which may be considered to constitute a material interest in accordance with paragraph 2;

(b) without delay notify the appointing authority or such other authority as may be empowered to perform the task referred to in paragraph 2 in the Member State concerned of any actual or potential interest which the independent valuer considers may, in the assessment of the authority, be considered to amount to a material interest in accordance with paragraph 2;

(c) take appropriate steps to ensure that none of the staff or other persons involved in carrying out the valuation have any material interest of a kind as referred to in paragraph 2.

[8] Directive 2006/46/EC of the European Parliament and of the Council of 14 June 2006 amending Council Directives 78/660/EEC on the annual accounts of certain types of companies, 83/349/EEC on consolidated accounts, 86/635/EEC on the annual accounts and consolidated accounts of banks and other financial institutions and 91/674/EEC on the annual accounts and consolidated accounts of insurance undertakings (OJ L 224, 16.8.2006, p. 1.)

Chapter FIVE
RESOLUTION

SECTION I
CONTRACTUAL RECOGNITION AND CONVERSION POWERS

Article 42
Definitions

For the purposes of this Chapter Five, Section I, the following definitions apply:

(1) 'material amendment' means, in relation to a relevant agreement, as defined in point 2 of this Article, entered into before the date of application of the national provisions transposing Section 5 of Chapter IV of Title IV of Directive 2014/59/EU, an amendment, including an automatic amendment, made after that date and affecting the substantive rights and obligations of a party to a relevant agreement; amendments which do not affect the substantive rights and obligations of a party to a relevant agreement include a change to the contact details of a signatory or the addressee for the service of documents, typographical changes to correct drafting errors or automatic adjustments of interest rates;

(2) 'relevant agreement' means any agreement, including the terms of a capital instrument, creating a liability to which Article 55(1) of Directive 2014/59/EU applies.

Article 43
Liabilities to which the exclusion from the obligation to include the contractual term referred to in Article 55(1) of Directive 2014/59/EU applies

(1) For the purposes of point (a) of the first subparagraph of Article 55(1) of Directive 2014/59/EU, a secured liability shall not be considered as an excluded liability where, at the time at which it is created, it is:

(a) not fully secured;

(b) fully secured but governed by contractual terms that do not oblige the debtor to maintain the liability fully collateralised on a continuous basis in compliance with regulatory requirements of Union law or of a third country law achieving effects that can be deemed equivalent to Union law.

(2) For purposes of point (d) of the first subparagraph of Article 55(1) of Directive 2014/59/EU, liabilities issued or entered into after the date of application of the provisions adopted by Member States for the transposition of Section 5 of Chapter IV of Title IV of Directive 2014/59/EU in a Member State shall comprise:

(a) liabilities created after that date, regardless of whether they are created under relevant agreements entered into before that date, including under master or framework agreements between the contracting parties governing multiple liabilities;

(b) liabilities created before or after that date under relevant agreements entered into before that date and which are subject to a material amendment;

(c) liabilities under debt instruments issued after that date;

(d) liabilities under debt instruments issued before or after that date under relevant agreements entered into before that date and which are subject to a material amendment.

(3) For the purposes of the second subparagraph of Article 55(1) of Directive 2014/59/EU, a resolution authority shall determine that the requirement to include a contractual term in a relevant agreement shall not apply where it is satisfied that the law of the third country concerned or a binding agreement concluded with that third country provides for an administrative or judicial procedure which:

(a) at the request of the resolution authority, or at the initiative of the third country adminsitrative or judicial authority whose law governs the liability or instrument, enables such duly empowered third country adminsitrative or judicial authority, within a period which the resolution authority determines will not compromise the effective application of the write-down and conversion powers by that authority to do either of the following:

(i) recognise and give effect to the exercise of the write-down and conversion powers by the resolution authority;

(ii) support through the application of relevant powers the exercise of the write-down and conversion powers by the resolution authority;

(b) provides that the grounds on which a third country administrative or judicial authority may refuse to recognise or support the exercise of the write-down and conversion powers pursuant to point (a) are clearly stated and are limited to one or more of the following exceptional cases:

(i) the recognition or support of the exercise of the write-down and conversion powers by the resolution authority would have adverse effects on financial stability in the third country concerned;

(ii) the recognition or support of the exercise of the write-down and conversion powers by the resolution authority would result in third country creditors, in particular depositors located and payable in that third country, being treated less favourably than creditors, and depositors located or payable in the Union, with similar rights under applicable Union law;

(iii) recognition or support would have material financial implications for the third country concerned;

(iv) recognition or support of the exercise of write-down and conversion powers by the resolution authority would have effects contrary to the public order of the third country concerned.

(4) For the purposes of the application of the second subparagraph of Article 55(1) of Directive 2014/59/EU, the resolution authority shall assess that the grounds referred to in paragraph 3(b) would not prevent the recognition or support of the exercise of the write-down and conversion powers in all circumstances where such powers are applied.

Article 44

Contents of the contractual term required by Article 55(1) of Directive 2014/59/EU

Contractual term in a relevant agreement shall include the following:

(1) the acknowledgement and acceptance by the counterparty of an institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU, that the liability may be subject to the exercise of write-down and conversion powers by a resolution authority;

(2) a description of the write-down and conversion powers of each resolution authority in accordance with the national law transposing Section 5 of Chapter IV of Title IV of Directive 2014/59/EU or, where applicable, under Regulation (EU) No 806/2014 of the European Parliament and of the Council[9], in particular the powers set out in points (e), (f), (g) and (j) of Article 63(1) of Directive 2014/59/EU;

(3) the acknowledgement and acceptance by the counterparty of an institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU:

(a) that it is bound by the effect of an application of the powers referred to in point (b), including:

(i) any reduction in the principal amount or outstanding amount due, including any accrued but unpaid interest, in respect of the liability of an institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU under the relevant agreement;

(ii) the conversion of that liability into ordinary shares or other instruments of ownership;

(b) that the terms of the relevant agreement may be varied as necessary to give effect to the exercise by a resolution authority of its write-down and conversion powers and such variations will be binding on the counterparty of an institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU;

(c) that ordinary shares or other instruments of ownership may be issued to or conferred on the counterparty of an institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU, as a result of the exercise of the write-down and conversion powers;

(4) the acknowledgement and acceptance by the counterparty of an institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU, that the contractual term is exhaustive on the matters described therein to the exclusion of any other agreements, arrangements or understandings between the counterparties relating to the subject matter of the relevant agreement.

SECTION II
NOTIFICATIONS AND NOTICE OF SUSPENSION

Article 45
General requirements for notifications

(1) Notifications submitted under Articles 81(1), (2), (3) and 83(2) of Directive 2014/59/EU shall be in writing and transmitted by adequate and safe electronic means.

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

(2) The relevant authorities referred to in paragraphs 1, 2 and 3 of Article 81 of Directive 2014/59/EU and in Article 83(2) shall specify the contact details for submitting a notification and make these publicly available.

(3) Before sending a notification, the sender may make contacts orally with the relevant authorities referred to in paragraphs 1, 2 and 3 of Article 81 of Directive 2014/59/EU to inform them that a notification is being submitted.

(4) For the purpose of notifications referred to in points (a), (b), (c), (d), (h) and (j) of Article 81(3) of Directive 2014/59/EU and in points (a), (b), (f) and (h) of Article 83(2) thereof, competent authorities and resolution authorities shall use the language in common use for cooperation with the consolidating supervisor and the group level resolution authority.

(5) The relevant authorities referred to in paragraphs 1, 2 and 3 of Article 81 of Directive 2014/59/EU and in Article 83(2) thereof shall acknowledge receipt of the notification to the sender specifying the date and time of receipt as recorded by the recipient and the contact details of the staff handling the notification.

Article 46

Notification by the management body to a competent authority

(1) The notifications submitted by the management body of an institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU to a competent authority, shall include:

(a) the name, the address of the registered office and, where available, the legal entity identifier of the institution or entity sending the notification;

(b) the name and address of the registered office of the immediate and ultimate parent undertaking of that institution or entity, where relevant;

(c) the relevant information and analyses that the management body took into account when performing the assessment for determining that the conditions under Article 32(4) of Directive 2014/59/EU have been met;

(d) a copy of the management body's written resolution confirming its assessment that the institution or the entity is failing or likely to fail;

(e) any additional information that the management body considers relevant to its assessment.

(2) The notification pursuant to Article 81(1) of Directive 2014/59/EU shall be communicated immediately to the competent authority following the decision by the management body that an institution or entity referred to in point (b), (c) or (d) of Article 1(1) of that Directive is failing or likely to fail.

Article 47

Communication of the competent authority to the resolution authority of the received notification

Upon receipt of the notification referred to in Article 46, the competent authority shall immediately send the following information to the resolution authority:

(1) a copy of the notification received including all the information referred to in Article 46(1);

(2) the details of crisis prevention measures or actions referred to in Article 104 of Directive 2013/36/EU that the competent authority has taken or requires the institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU to take, where relevant;

(3) any additional supporting documents the competent authority deems necessary for the resolution authority to be able to take an informed decision.

Article 48

Notification of assessment that an institution meets the conditions for resolution set out in points (a) and (b) of Article 32(1) of Directive 2014/59/EU

(1) The notification of a competent authority or resolution authority for the purposes of Article 81(3) of Directive 2014/59/EU shall include:

(a) the name of the institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU to which the notification relates;

(b) the information set out in points (a) and (b) of Article 46(1);

(c) a summary of the assessment required in points (a) and (b) of Article 32(1) of Directive 2014/59/EU.

(2) The notification shall be made without delay following a determination that the conditions referred to in points (a) and (b) of Article 32(1) of Directive 2014/59/EU have been met.

(3) The competent authority shall, without delay, provide the resolution authority with any additional information that the resolution authority may request in order to complete its assessment.

Article 49

Notice

(1) The notice referred to in paragraph 4 of Article 83 of Directive 2014/59/EU to be published by the resolution authority, shall include:

(a) the name, the address of the registered office and, where available, the legal entity identifier of the institution or of the entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU under resolution;

(b) the name and address of the registered office of the immediate and ultimate parent undertaking of that institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU, where relevant;

(c) a list of the names of other group entities and related branches in respect of which resolution actions exercise their effects, including, to the extent possible, information on branches located in third countries;

(d) a summary of the relevant resolution actions that are taken, the dates from which those resolution actions take effect and in particular their effects on retail customers and which includes the following:

(i) information on the access to deposits according to Directive 2014/49/EU on deposit guarantee schemes held at the institution affected by the resolution action;

(ii) information on the access to other clients' assets or funds within the meaning of point (e) of Article 31(2) of Directive 2014/59/EU, held at the institution affected by the resolution action;

(iii) information on the contractual payment or delivery obligations subject to suspension under Article 69 of Directive 2014/59/EU, including the commencement and expiration of the suspension period, where applicable;

(iv) information on the secured creditors of the institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU under resolution subject to restrictions on the enforcement of security interest including the commencement and expiration of that restriction period in accordance with Article 70 of Directive 2014/59/EU, where applicable;

(v) information on the contractual parties affected by the temporary suspension of termination rights including the commencement and expiration of the suspension period under Article 71 of Directive 2014/59/EU, where applicable;

(e) the confirmation of the ordinary course of contractual commitments, including repayment schedules, not subject to suspensions under Articles 69, 70 and 71 of Directive 2014/59/EU;

(f) the point of contact within the institution where customers and creditors can seek further information and updates on the institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU and its operations.

(2) The notice shall be published as soon as reasonably practical after taking a resolution action.

Chapter SIX
RESOLUTION COLLEGES

Section I
Operational organisation of resolution colleges

Article 50
Mapping and identification of resolution college members and possible observers

(1) For the purposes of identifying the members and potential observers of the resolution college, the group-level resolution authority shall conduct the mapping of group entities referred to in Article 1(1) of Directive 2014/59/EU, taking into account the mapping of that group as performed by the consolidating supervisor in accordance with Article 2 of Commission Delegated Regulation (EU) No 2016/98[10] and Article 2 of Commission Implementing Regulation (EU) No 2016/99[11].

(2) Upon finalisation of the mapping referred to in paragraph 1, the group-level resolution authority shall communicate the list of members and potential observers to the resolution college.

(3) The group-level resolution authority shall review and update the mapping of group entities and the list of members and potential observers at least annually. It shall also review and update the mapping and the list of members and potential observers following any material change to the legal or organisational structure of the group or to its business.

(4) When assessing whether to establish a resolution college in accordance with Article 88(6) of Directive 2014/59/EU, the group-level resolution authority shall also consider whether that other group or college operates in accordance with this Regulation.

Article 51
Third country resolution authorities as observers in the resolution college

(1) Upon receipt of a relevant request from a third country resolution authority as referred to in Article 88(3) of Directive 2014/59/EU, the group-level resolution authority shall communicate the request to the resolution college.

(2) The communication shall be accompanied by all of the following:

(a) the opinion of the group-level resolution authority, also having regard to point (b), on the equivalence of the confidentiality and professional secrecy regime applicable to the candidate observer;

(b) the terms and conditions of observers' participation in the resolution college that shall be included in the written arrangements and procedures as proposed by the group-level resolution authority;

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[10] Commission Delegated Regulation (EU) 2016/98 of 16 October 2015 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards for specifying the general conditions for the functioning of colleges of supervisors (OJ L 21 of 28.1.2016, p. 2).

[11] Commission Implementing Regulation (EU) 2016/99 of 16 October 2015 laying down implementing technical standards with regard to determining the operational functioning of the colleges of supervisors according to Directive 2013/36/EU of the European Parliament and of the Council (OJ L 21 of 28.1.2016, p. 21).

(c) the view of the group-level resolution authority as to the significance of the relevant branch, if the candidate is a third-country resolution authority for a branch;

(d) the setting of a time-limit, upon the expiration of which consent shall be assumed: within that time-limit any disagreeing resolution college member referred to in Article 88(2)(b), (c) or (d) of Directive 2014/59/EU may express its fully reasoned objection to the opinion of the group-level resolution authority referred to in point (a) of this paragraph.

(3) When an objection is expressed, the group-level resolution authority shall take it into account before making its final decision. For that purpose, it may also request the explicit views of the members of the college referred to Article 88(2)(b), (c) and (d) of Directive 2014/59/EU and take into account the majority of the views thereon.

(4) When the group-level resolution authority makes the decision to invite the resolution authority of the third country, it shall send an invitation to the candidate observer. The invitation shall be accompanied by the terms and conditions of participation as an observer set out in the written arrangements. The candidate receiving the invitation shall be considered an observer upon acceptance of the invitation, which shall be deemed as acceptance of the terms and conditions of participation.

(5) Following acceptance, the group-level resolution authority shall transmit an updated outcome of the mapping referred in Article 50 to the resolution college.

Article 52
Communication with the Union parent undertaking

(1) The group-level resolution authority shall ensure regular interaction and cooperation with the Union parent undertaking to enhance the efficient and effective functioning of the resolution college.

(2) The group-level resolution authority shall communicate to the Union parent undertaking the establishment of the resolution college and a list of its members and observers, as well as any change to the members and observers of the resolution college.

Article 53
Establishment and update of contact lists

(1) The group-level resolution authority shall maintain and share with the resolution college members and observers contact details of nominated persons from each member and observer for the purpose of performing resolution college tasks.

The contact details should also include out-of-hours contact details to be used for emergency situations and in particular for the purpose of deciding on the need to establish and agree on a group resolution scheme.

(2) The group-level resolution authority shall ensure that it receives from all college members and observers contact details of the relevant contact persons and is informed without undue delay on all relevant changes.

Article 54

Elements of written arrangements and procedures for the functioning of the resolution college

(1) The written arrangements and procedures pursuant to Article 88(5)(a) of Directive 2014/59/EU shall include at least the following elements:

(a) a description of the group, the Union parent undertaking, the subsidiaries and significant branches;

(b) the identification of the college members and observers;

(c) a description of the general resolution college framework for cooperation between authorities and coordination of activities and tasks.

(2) The general framework for cooperation and coordination shall include all of the following:

(a) a description of the different resolution college substructures for the performance of different tasks, where relevant. For that purpose, in particular with regard to college members concluding joint decisions, the group-level resolution authority shall consider the need of organising the resolution college in various substructures;

(b) an identification of the college members and observers participating in specific college activities. For that purpose, the group-level resolution authority shall ensure that the various college substructures, including substructures involving observers, shall not result in constraining or pre-empting the process of the joint decision-making in particular with regard to those members of the college who are required to conclude joint decisions in accordance with the relevant provisions of Directive 2014/59/EU;

(c) a description of the framework, the terms and conditions of the participation of the observers in the resolution college, including terms and conditions of their involvement in the various dialogues and processes of the college as well as their rights and obligations with regard to exchanging information having regard to Articles 90 and 98 of Directive 2014/59/EU. The group-level resolution authority shall ensure that the general framework and terms and conditions of the observers' participation are not more favourable than the framework, terms and conditions set out for college members in accordance with this Regulation and the relevant written arrangements of the particular college;

(d) a description of cooperation and coordination arrangements in emergency situations, especially of systemic nature, which may pose threats to the viability of any of the group entities;

(e) a description of the processes to be followed, when joint decision is not required but the formation of a common understanding within the resolution college or within any of its substructures appears necessary;

(f) a description of the arrangements for exchanging information including the relevant scope, frequency and communication channels having regard to Articles 90 and 98 of Directive 2014/59/EU and to the role of the group-level resolution authority as the coordinator for collecting and disseminating information amongst college members and observers;

(g) a description of relevant information to be shared with resolution college members and observers in particular in relation to resolution planning, resolvability assessment and other tasks referred to in Article 88(1) of Directive 2014/59/EU also having regard to Articles 90 and 98 of Directive 2014/59/EU and to the role of the group-level resolution authority;

(h) a description of the arrangements for the treatment of confidential information having regard to Articles 90 and 98 of Directive 2014/59/EU;

(i) a description of procedures for hosting regular and ad hoc physical meetings;

(j) a description of the method for coordinating the input to be provided independently by the resolution authorities to the supervisory college or to the consolidating supervisor, where required by legislation or on an own initiative basis;

(k) a description of the method for communicating the input referred to in point (j), in particular a description of the relevant role of the group-level resolution authority in communicating that input to the consolidating supervisor;

(l) a description of the communication policy with the consolidating supervisor, the competent authorities in the relevant Member States, the Union parent undertaking and the entities of the group referred to in Article 58;

(m) any other agreement concerning the functioning of the resolution college; and

(n) any provisions covering discontinuance arrangements.

Article 55

Establishment and update of written arrangements and procedures for the functioning of the resolution college

(1) The group-level resolution authority shall prepare its proposal for the written arrangements and procedures for the functioning of the resolution college in accordance with Article 54.

(2) The group-level resolution authority shall communicate its proposal to the members of the resolution college for consultation, inviting them to provide their opinion and indicating the time-line for the submission of those opinions.

(3) The group-level resolution authority shall take into account the opinions of the members of the resolution college and reason its decision when not taking them into account.

(4) Upon finalisation the group-level resolution authority shall communicate the written arrangements and procedures for the functioning of the resolution college to the members of the resolution college.

(5) Written arrangements and procedures for the functioning of the resolution college shall be reviewed and updated, in particular after any substantive changes in the composition of the resolution college.

(6) While updating the general written arrangements and procedures for the functioning of the resolution college, the group-level resolution authority and the other members of the college shall follow the procedure set out in paragraphs 1 to 5.

Article 56
Operational aspects of college meetings and other activities

(1) The resolution colleges shall convene at least one meeting in person per year. The group-level resolution authority with the consent of all members of the college, having taken into account the specificities of the group, may determine a different frequency of physical meetings of the resolution college.

(2) The group-level resolution authority shall organise other college activities on a regular basis, in particular where a dialogue between college members is required.

(3) The group-level resolution authority shall prepare and communicate to college members the agenda and objectives of planned meetings and other activities.

(4) All resolution college members participating in college meetings or other activities shall ensure that the appropriate representatives, according to the objectives of the meeting and other activities of the resolution college, participate in these meetings and other activities and that these representatives shall be empowered to commit their authorities, to the maximum extent possible, in case decisions are expected to be taken in these meetings or other activities.

(5) The group-level resolution authority shall ensure that relevant documents are circulated well in advance before a particular meeting or activity of the resolution college.

(6) Outcomes and decisions of college meetings or other activities shall be documented in writing and communicated to college members in due time.

Article 57
Exchange of information

(1) Subject to Articles 90 and 98 of Directive 2014/59/EU, the group-level resolution authority and the members of the college shall ensure that they exchange all essential and relevant information, whether received from a group entity, a competent authority, a resolution authority or any other designated authority or any other source.

(2) That information shall be adequate and accurate, as well as shared in a timely manner to enable and facilitate the efficient, effective and full performance of the tasks of resolution college members in both going concern and emergency situations.

(3) For the purpose of effective and efficient coordination between the supervisory and resolution college, the group-level resolution authority and the consolidating supervisor shall exchange all information required to ensure that colleges fulfil their role set out in Article 116 of Directive 2013/36/EU and Article 88 of Directive 2014/59/EU.

(4) The group-level resolution authority receiving information referred to in paragraphs 1 and 2 shall transmit it to the members of the resolution college.

(5) Where the college is organised in different substructures, the group-level resolution authority shall keep all resolution college members fully informed, in a timely manner, on the actions taken or the measures carried out in those college substructures.

(6) If not provided for otherwise, any ordinary means of communication may be used, preferring secure means of communication, in particular where sensitive information

is being transmitted. For publicly available information, it shall be sufficient that the group-level resolution authority provides the reference to such information.

(7) Where a secure resolution college website exists, the use of this website shall be the main means of communication.

(8) Articles 50 to 76 of this Regulation shall not affect the information gathering powers of the competent or resolution authorities.

Article 58
Communication policy

(1) The group-level resolution authority shall be the authority responsible for communication with the Union parent undertaking and the consolidating supervisor, where the latter is different from the group-level resolution authority.

(2) The resolution authorities referred to in Article 88(2)(b), (c) and (d) of Directive 2014/59/EU shall be the authorities responsible for the communication with the entities and the competent authorities in the respective Member States.

Article 59
Coordination of external communication

(1) The members of the resolution college shall coordinate their external communications related to group resolution strategies and schemes.

(2) For the purpose of coordination of the external communication, the members of the resolution college shall agree at least on the following:

(a) allocation of responsibilities for coordinating external communication, during a going concern situation, in a situation where an institution or group is considered as failing or likely to fail, and in a resolution situation;

(b) determining the level of information to be disclosed on group resolution strategies;

(c) co-ordination of public statements in situations where an institution or group is considered as failing or likely to fail;

(d) co-ordination of public statements related to resolution actions taken including the publication of orders or instruments by which the resolution actions were taken or notices summarising the effects of resolution actions.

Article 60
Emergency situations

(1) The group-level resolution authority shall establish and regularly test operational procedures for the functioning of the resolution college in emergency situations, in particular systemic ones, which may pose threats to the viability of any of the group entities.

(2) Operational procedures referred to in paragraph 1 shall cover at least the following elements:

(a) secure means of communication to be used;

(b) set of information to be exchanged;

(c) relevant persons to be contacted;

(d) communication procedures to be followed by the relevant college members.

SECTION II
GROUP RESOLUTION PLANNING JOINT DECISIONS

Subsection 1
Joint decision process on group resolution plan and resolvability assessment

Article 61
Planning of the steps of the joint decision process

(1) Prior to the start of the joint decision process, the group-level resolution authority and the resolution authorities of subsidiaries shall agree on a timetable of steps to be followed in that process ("joint decision timetable").

In the case of a failure to agree on that timetable, the group-level resolution authority shall set the joint decision timetable after considering the views and reservations expressed by the resolution authorities of subsidiaries.

(2) The joint decision timetable shall be updated at least annually and shall include all of the following steps to be implemented in a sequence agreed between the group-level resolution authority and the resolution authorities of subsidiaries:

(a) preliminary dialogue between the group-level resolution authority and the resolution authorities of subsidiaries on the resolution strategy of the group, in preparation of the joint decision on the group resolution plan and resolvability assessment;

(b) request information necessary to the Union parent undertaking for the drawing up of the group resolution plan and the performance of the resolvability assessment in accordance with Article 11 of Directive 2014/59/EU;

(c) submission of the information requested in point (b) of this paragraph by the Union parent undertaking directly to the group-level resolution authority in accordance with Article 13(1) of Directive 2014/59/EU;

(d) transmission of the information that the group-level resolution authority receives from the Union parent undertaking to the authorities referred to in Article 13(1) of Directive 2014/59/EU and indication of a time-limit for any additional information requests;

(e) submission of contributions for the development of the group resolution plan and the resolvability assessment by the resolution authorities of subsidiaries to the group-level resolution authority;

(f) submission of the draft group resolution plan and the draft resolvability assessment from the group-level resolution authority to the resolution college members;

(g) submission of possible comments on the draft group resolution plan and on the draft resolvability assessment from the resolution college members to the group-level resolution authority;

(h) discussion with the Union parent undertaking on the draft group resolution plan and its resolvability assessment, where that is deemed appropriate by the group-level resolution authority;

(i) dialogue between the group-level resolution authority and the resolution authorities of subsidiaries on the draft group resolution plan and its resolvability assessment;

(j) circulation of the draft joint decision document on the group resolution plan and on the resolvability assessment by the group-level resolution authority to the resolution authorities of subsidiaries;

(k) dialogue on the draft joint decision document on the group resolution plan and on the resolvability assessment between the group-level resolution authority and the resolution authorities of subsidiaries;

(l) reaching joint decision on the group resolution plan and on the resolvability assessment;

(m) communication of the conclusion of the joint decision to the Union parent undertaking along with a summary of the key elements of the group resolution plan.

(3) The timetable shall:

(a) reflect the scope and complexity of each step of the joint decision process;

(b) take into account the timetable of other joint decisions organised within the resolution college;

(c) take into account, to the extent possible, the timetable of other joint decisions organised within the relevant supervisory college, in particular the timetable of the joint decision on the review and assessment of the group recovery plan in accordance with Article 8(2) of Directive 2014/59/EU.

Article 62
Elements of the joint decision timetable

(1) When drafting the joint decision timetable, the authorities involved or the group-level resolution authority when acting alone shall take into account Articles 16(3) and 17(2) of Directive 2014/59/EU on the need for simultaneous assessment of resolvability and suspension of the process to address substantive impediments and shall ensure that the relevant time-limits provided in the joint decision timetable are adjusted accordingly.

(2) When drafting the joint decision timetable, the group-level resolution authority shall have regard to the terms and conditions of the observers' participation as set out in the resolution college written arrangements and in respective provisions of Directive 2014/59/EU.

(3) The following aspects of the timetable shall be communicated from the group-level resolution authority to the Union parent undertaking:

(a) an estimated date when the request of the information necessary for drawing up of the group resolution plan and performing the resolvability assessment is expected to be made in accordance with Article 61(2)(b) and the time-limit for submission of that information in accordance with Article 61(2)(c);

(b) an estimated date for the organisation of the discussion referred to in Article 61(2)(h), where relevant;

(c) an estimated date for the communication referred to in Article 61(2)(m).

Article 63
Preliminary dialogue on the resolution strategy

The group-level resolution authority shall organise a preliminary dialogue with the resolution authorities of subsidiaries to perform all of the following:

(1) discuss a preliminary proposal on the resolution strategy for the group;

(2) verify whether any of the information necessary for the development of the group resolution plan and the resolvability assessment is already available to any of the competent authorities, and share this information in accordance with Article 11(2) of Directive 2014/59/EU;

(3) determine the additional information to be requested from the Union parent undertaking;

(4) agree on any contributions needed from the resolution authorities of subsidiaries to the group-level resolution authority for the development of the group resolution plan and the performance of the resolvability assessment.

Article 64
Information from the Union parent undertaking

(1) The group-level resolution authority shall request from the Union parent undertaking all the necessary information in accordance with Article 11 of Directive 2014/59/EU, taking into account the outcome of the dialogue provided for in Article 63.

(2) The group-level resolution authority shall communicate clearly to the Union parent undertaking the entities of the group to which this information relates and applies, as well as the time-limit for the provision of such information.

(3) The Union parent undertaking shall provide the information requested to the group-level resolution authority in a timely manner, but no later than within the time-limit specified under paragraph 2.

(4) The group-level resolution authority may ask for additional information from the Union parent undertaking, both before transmitting information to the authorities referred to in Article 13(1) of Directive 2014/59/EU and after that, whenever Article 66(2) of this Regulation applies.

Article 65
Transmission of information from the group-level resolution authority

(1) The group-level resolution authority shall, without undue delay, transmit information received in accordance with Article 64 to the authorities referred to in Article 13(1) of Directive 2014/59/EU and shall invite them to provide comments within a specific time-limit on whether additional information is required.

(2) Any authority receiving information may request additional information from the group-level resolution authority within the time-limit specified under paragraph 1, where the receiving authority deems the additional information to be relevant to the

entity or the branch under its jurisdiction for the purpose of the development and maintenance of the group resolution plan and performance of the resolvability assessment. In such case, the relevant provisions of Article 64 shall apply accordingly.

(3) The transmission of information from the group-level resolution authority to the authorities referred in paragraph 2 shall not be deemed complete until the actual transmission of both the initial and the subsequent information.

(4) The group-level resolution authority shall, taking into account paragraph 3, communicate to the resolution college the starting date of the four-month period for reaching the joint decision on the group resolution plan and resolvability assessment in accordance with Article 13(4) of Directive 2014/59/EU.

(5) The group-level resolution authority and the authorities referred to in Article 13(1) of Directive 2014/59/EU shall exchange additional information necessary to facilitate the drawing up of the group resolution plan and the performance of the resolvability assessment, subject to the confidentiality requirements laid down in Articles 90 and 98 of Directive 2014/59/EU.

Article 66

Development and circulation of the draft group resolution plan and resolvability assessment

(1) The resolution authorities of subsidiaries shall provide to the group-level resolution authority their contributions to the group resolution plan and resolvability assessment in a timely manner and in any event by the time-limit specified in the joint decision timetable pursuant to Article 61(2)(e).

(2) The group-level resolution authority shall develop the draft group resolution plan in accordance with Article 12 of Directive 2014/59/EU, taking into account any contributions submitted by the resolution authorities of subsidiaries.

(3) The group-level resolution authority shall circulate the draft group resolution plan and resolvability assessment to the college members in a timely manner, however no later than within the time-limit specified under Article 61(2)(f).

Article 67

Consultation with resolution college members

(1) College members consulted by the group-level resolution authority shall provide their comments on the draft group resolution plan and the resolvability assessment within the time-limit specified under Article 61(2)(g).

(2) In particular, the relevant competent authorities referred to in Articles 115 and 116 of Directive 2013/36/EU shall provide their opinion with regard to the assessment of the resolvability of the entities in their jurisdiction.

(3) Where any of the authorities considers that there are substantive impediments to the resolvability of the group or any of its entities, it shall communicate its assessment to the group-level resolution authority in a timely and in any event by the time-limit specified under Article 61(2)(g).

(4) The group-level resolution authority shall transmit to the resolution authorities of subsidiaries the comments received from the other resolution college members, including comments on the assessment of the resolvability of the entities in their jurisdiction expressed by these authorities.

Article 68

Discussion with the Union parent undertaking

When the group-level resolution authority organises a discussion on the draft group resolution plan and resolvability assessment with the Union parent undertaking pursuant to Article 61(2)(h) it shall do so in a timely manner and in any event within the time-limits specified in the relevant step of the joint decision timetable. The group-level resolution authority shall communicate to the resolution authorities of subsidiaries any observations submitted by the Union parent undertaking during this consultation.

Article 69

Dialogue on the draft resolution plan and resolvability assessment

(1) The group-level resolution authority shall organise a dialogue on the draft group resolution plan and resolvability assessment with the resolution authorities of subsidiaries in a timely manner pursuant to Article 61(2)(i), however no later than within the time-limit specified in the joint decision timetable.

(2) The dialogue shall include issues of assessment of the group's resolvability and shall facilitate the identification of possible substantive impediments to resolvability, taking into account any observations submitted by the Union parent undertaking. For that purpose, the group-level resolution authority shall inform the resolution authorities of subsidiaries on its own assessment on the resolvability of the group and shall take into account the opinion expressed by other college members.

(3) Based on the dialogue referred to in paragraph 1, the group-level resolution authority shall finalise the group resolution plan and the performance of the resolvability assessment. Changes applied to the draft group resolution plan and resolvability assessment shall reflect the outcome of the dialogue.

(4) Where substantive impediments to resolvability are identified Article 76(1) applies.

Article 70

Drafting the joint decision on group resolution plan and resolvability assessment

The group-level resolution authority shall prepare a draft joint decision on the group resolution plan and resolvability assessment. The draft joint decision shall set out all of the following:

(1) the names of the group-level resolution authority and the resolution authorities of subsidiaries reaching the joint decision on the group resolution plan and resolvability assessment;

(2) the names of the resolution authorities and competent authorities consulted in the drawing up and maintenance of the group resolution plan and the performance of the resolvability assessment, in particular:

   (a) the names of the resolution authorities of significant branches and the resolution authorities of Member States where the entities referred to in Article 1(1)(c) and (d) of Directive 2014/59/EU are established;

   (b) the names of the relevant competent authorities referred to in Articles 115 and 116 of Directive 2013/36/EU;

(c) the names of the observers where those observers were involved in the joint decision process in accordance with the terms and conditions of observers' participation as noted in the written arrangements;

(3) the name of the Union parent undertaking and the group entities covered by the group resolution plan and resolvability assessment, and to which the joint decision relates and applies;

(4) the references to the applicable Union and national law relating to the preparation, finalisation and application of the joint decision on group resolution plan and resolvability assessment;

(5) the date of the adoption of the joint decision on the group resolution plan and resolvability assessment, and of any relevant update thereof;

(6) the group resolution plan and resolvability assessment including any measures to address or remove substantive impediments to resolvability in accordance to Article 17(4), (5) and (6) and Article 18 of Directive 2014/59/EU, subject to which the joint decision is taken. Where Union parent undertaking or any of its entities are in the process of implementing those measures, then information on the timeline for their implementation shall be also provided;

(7) a summary of views expressed by the authorities consulted in the joint decision process on the group resolution plan and its resolvability assessment;

(8) where the EBA has been consulted during the joint decision process, an explanation of any deviation from the advice of the EBA.

Article 71

Reaching joint decision on the group resolution plan and resolvability assessment

(1) The group-level resolution authority shall send the draft joint decision on the group resolution plan and resolvability assessment to the resolution authorities of subsidiaries without undue delay setting a time-limit for the resolution authorities of subsidiaries to provide their written agreement to that joint decision, which may be sent by electronic means of communication.

(2) Upon their receipt of the draft joint decision the resolution authorities of subsidiaries not disagreeing shall transmit their written agreement to the group-level resolution authority within the time-limit specified under paragraph 1.

(3) The final joint decision shall consist of the joint decision document drafted in accordance with Article 70 and of the written agreements referred to in paragraph 2 of this Article and the one of the group-level resolution authority attached thereto and shall be provided to the resolution authorities of subsidiaries agreeing with the joint decision by the group-level resolution authority.

(4) The group-level resolution authority shall communicate the joint decision on the group resolution plan and resolvability assessment to the resolution college.

Article 72

Communication of the joint decision and summary of the group resolution plan to the Union parent undertaking

(1) The group-level resolution authority shall communicate the joint decision and a summary of the key elements of the group resolution plan, including the resolvability

assessment, to the management body of the Union parent undertaking in a timely manner and in any event by the time-limit specified in the joint decision timetable pursuant to Article 61(2)(m).

(2) The group-level resolution authority shall inform the resolution authorities of subsidiaries about that communication.

(3) The group-level resolution authority may discuss the joint decision on group resolution plan and resolvability assessment with the Union parent undertaking to explain the details of that decision.

Subsection 2
Process in the absence of joint decision on group resolution plan and resolvability assessment

Article 73
Partial disagreement

(1) Where one or more of the resolution authorities of subsidiaries disagree with the group resolution plan and resolvability assessment, the group-level resolution authority and the resolution authorities of subsidiaries which do not disagree pursuant to Article 13(7) of the Directive 2014/59/EU shall follow all relevant steps set out in Articles 70, 71 and 72 for drafting, reaching and communicating the joint decision on the group resolution plan and resolvability assessment.

(2) The joint decision taken on the group resolution plan and resolvability assessment shall be set out in a document that contains all of the items set out in Article 70.

(3) A summary of views expressed by the resolution authorities of subsidiaries who were involved in the initial joint decision process on the group resolution plan and resolvability assessment but disagreed to it shall be included. In particular, the summary shall include references to all issues that led to disagreement.

Article 74
Elements of communication of individual decisions

(1) In the absence of a joint decision between the resolution authorities within four months in accordance with Article 13(5) of Directive 2014/59/EU, the decision taken by the group-level resolution authority on the group resolution plan and resolvability assessment shall be communicated in writing to the resolution college members by means of a document containing all of the following items:

(a) the name of the group-level resolution authority;

(b) the name of the Union parent undertaking;

(c) references to the applicable Union and national law relating to the preparation, finalisation and application of the decision;

(d) the date of the decision;

(e) the group resolution plan and resolvability assessment including any measures to address or remove substantive impediments to resolvability in accordance to Article 17(4), (5) and (6) of Directive 2014/59/EU, subject to which the decision is taken. Where the Union parent undertaking is in the process of implementing those measures, the timeline for their implementation shall be also provided;

(f) the names of the resolution college members and observers involved, in accordance with the terms and conditions of observers' participation, in the joint decision process on the group resolution plan and resolvability assessment, along with a summary of the views expressed by those authorities and information on issues leading to disagreement;

(g) comments of the group-level resolution authority on the views expressed by resolution college members and observers, in particular on issues leading to disagreement.

(2) In the absence of a joint decision between the resolution authorities within four months in accordance with Article 13(6) of Directive 2014/59/EU, the resolution authorities drawing up individual resolution plans shall transmit to the group-level resolution authority a document that contains all of the following items:

(a) the name of the resolution authority taking the decision;

(b) the name of the entity or entities under the jurisdiction of the resolution authority to which the decision relates and applies;

(c) references to the applicable Union and national law relating to the preparation, finalisation and application of the decision;

(d) the date of the decision;

(e) the resolution plan and the assessment of resolvability of the entities under their jurisdiction including any measures to address or remove substantive impediments to resolvability in accordance to Article 17(4), (5) and (6) of Directive 2014/59/EU, subject to which the decision is taken. Where the entities are in the process of implementing these measures, then the timeline for their implementation shall be also provided;

(f) the name of the group-level resolution authority along with explanations on the reasons for disagreement with the proposed group resolution plan and resolvability assessment.

(3) Where the EBA has been consulted, the decisions taken in the absence of a joint decision in accordance with Article 13(5) and (6) of Directive 2014/59/EU shall include an explanation as to why the advice of the EBA was not followed.

Article 75

Communication of individual decisions in the absence of joint decision

(1) In the absence of a joint decision between the group-level resolution authority and the resolution authorities of subsidiaries within the time period referred to in Article 13(4) of Directive 2014/59/EU, all decisions referred to in Article 13(5) and (6) of that Directive shall be communicated in writing by the relevant resolution authorities of subsidiaries to the group-level resolution authority, by the latest of the following dates:

(a) the date one month after the expiry of the time period referred to in Article 13(4) of Directive 2014/59/EU;

(b) the date one month after the provision of any advice by the EBA following a request for consultation in accordance with the third subparagraph of Article 13(4) of Directive 2014/59/EU;

(c) the date one month after any decision taken by the EBA in accordance with the second subparagraph of Article 13(5) or Article 13(6) of Directive 2014/59/EU or any other date set by the EBA in such a decision.

(2) The group-level resolution authority shall notify without undue delay its own decision and the decisions referred to in paragraph 1 to the other resolution college members.

Subsection 3
Joint decision on measures to address substantive impediments to resolvability

Article 76
Suspension of the joint decision process on the group resolution plan and resolvability assessment

(1) When the group-level resolution authority identifies substantive impediments to resolvability or assents to an opinion on identified substantive impediments expressed by any of the authorities having been consulted on the group resolution plan and resolvability assessment, the group-level resolution authority shall suspend the joint decision process in accordance with Article 17(2) of Directive 2014/59/EU and shall notify its decision to the resolution college members.

(2) The group-level resolution authority shall start re-conducting the joint decision process on the group resolution plan including the performance of its resolvability assessment, as soon as the joint decision process referred to in Article 18 of Directive 2014/59/EU on measures to address or remove substantive impediments to resolvability has been completed.

Article 77
Planning of the steps of the joint decision process on measures to address substantive impediments to resolvability

(1) Prior to the start of the joint decision process on measures to address or remove substantive impediments to resolvability, the group-level resolution authority and the resolution authorities of subsidiaries shall agree on a timetable of steps to be followed in the joint decision timetable.

In the case of a failure to agree on that timetable, the group-level resolution authority shall set the joint decision timetable after considering the views and any reservations expressed by the resolution authorities of subsidiaries.

(2) The joint decision timetable shall include the following steps:

(a) preparation and circulation of the report on substantive impediments identified in accordance with Article 18(2) of Directive 2014/59/EU by the group-level resolution authority in consultation with the consolidating supervisor and the EBA;

(b) submission of the report pursuant to Article 18(2) of Directive 2014/59/EU from the group-level resolution authority to the Union parent undertaking, the resolution authorities of subsidiaries, and the resolution authorities of jurisdictions in which significant branches are located;

(c) date when the Union parent undertaking submits to the group-level resolution authority its observations and alternative measures to remedy the substantive

impediments, if any, in accordance with Article 18(3) of Directive 2014/59/EU;

(d) dialogue between the group-level resolution authority and the resolution authorities of subsidiaries and other resolution college members, on any observations or alternative measures to remedy the substantive impediments proposed by the Union parent undertaking pursuant to Article 18(3) of Directive 2014/59/EU, as appropriate;

(e) development of the draft joint decision on measures to address or remove substantive impediments to resolvability;

(f) finalisation of the joint decision on measures to address or remove substantive impediments to resolvability; and

(g) communication of the joint decision on measures to address or remove substantive impediments to resolvability.

(3) The joint decision timetable shall be reviewed and updated by the group-level resolution authority in order to reflect the extension of the joint decision process where the Union parent undertaking submits observations and proposes any alternative measures to address or remove substantive impediments to resolvability in accordance to Article 18(3) of Directive 2014/59/EU.

(4) When drafting the joint decision timetable, the group-level resolution authority shall have regard to the terms and conditions of the observers' participation as set out in the resolution college written arrangements and in the respective provisions of Directive 2014/59/EU.

(5) The group-level resolution authority shall communicate to the Union parent undertaking those aspects of the joint decision timetable that envisage the involvement of the Union parent undertaking.

Article 78
Consultation and communication of the report

(1) The group-level resolution authority shall prepare a draft report on substantive impediments to resolvability in accordance with Article 18(2) of Directive 2014/59/EU and shall transmit it to the consolidating supervisor, the EBA, the competent authorities and the resolution authorities of the subsidiaries and of jurisdictions in which significant branches are located.

It may also submit the draft report to other resolution college members and observers, as appropriate and in the manner agreed and detailed in the resolution college written arrangements and procedures.

(2) Comments and views received shall be considered by the group-level resolution authority for the purposes of the finalisation of the report. The group-level resolution authority shall provide full reasoning in relation to any deviation from a view or comment made by the EBA or by the consolidating supervisor.

(3) Upon finalisation, the report shall be provided to the Union parent undertaking.

(4) The group-level resolution authority shall communicate to the resolution college the start of the four-month period for reaching the joint decision on measures to address substantive impediments to resolvability.

Article 79

Submission of observations of the Union parent undertaking and consultation with the authorities

(1) Where the Union parent undertaking submits observations and proposes to the group-level resolution authority, within four months of the date of receipt of the report in accordance with Article 18(3) of Directive 2014/59/EU, alternative measures to remedy the substantive impediments to resolvability, the group-level resolution authority shall forward those observations and measures to other college members without undue delay and in any case within 10 days.

(2) The group-level resolution authority shall, having regard to paragraph 1, communicate to the resolution college the extension of the time period for reaching the joint decision on measures to address substantive impediments to resolvability in accordance with Article 18(3) and (5) of Directive 2014/59/EU.

(3) While circulating the observations and alternative measures submitted by the Union parent undertaking, the group-level resolution authority shall set a time limit for submission of comments.

(4) Where authorities do not provide their comments by the time-limit referred to in paragraph 3, the group-level resolution authority shall presume that these authorities do not have any comments on the observations and alternative measures submitted by the Union parent undertaking and shall proceed further.

(5) The group-level resolution authority shall provide, as soon as possible and without undue delay, to the resolution authorities of subsidiaries any comments submitted by the other resolution college members and shall discuss with them the proposed measures to address substantive impediments to resolvability.

(6) The group-level resolution authority and the resolution authorities of subsidiaries shall in addition duly discuss and consider the potential impact of the proposed measures on all entities that are part of the group, on all the Member States where the group operates, and on the Union as a whole.

Article 80

Drafting the joint decision on measures to address substantive impediments to resolvability

(1) The group-level resolution authority shall, taking into account the outcome of the dialogue under Article 79(5) and (6), as appropriate, prepare a draft joint decision on measures to address or remove substantive impediments to resolvability.

(2) The draft joint decision shall set out all of the following items:

(a) the name of the Union parent undertaking and the group entities to which the joint decision relates and applies;

(b) the names of the group-level resolution authority and the resolution authorities of subsidiaries reaching the joint decision;

(c) the names of the relevant competent authorities and the names of the resolution authorities of significant branches that have been consulted on the resolvability of the group, on the measures to address or remove substantive impediments, and on the observations and alternative measures, if any, submitted by the Union parent undertaking;

(d) the names of the observers where those observers were involved in the joint decision process in accordance with the terms and conditions of observers' participation as noted in the written arrangements;

(e) the references to the applicable Union and national law relating to the preparation, finalisation and application of the joint decision;

(f) the date of the joint decision;

(g) the measures pursuant to Article 17(5) and (6) of 2014/59/EU decided by the group-level resolution authority and the resolution authorities of subsidiaries and the time period within which the respective group entities shall address these measures;

(h) where the measures proposed by the Union parent undertaking are not accepted or are partially accepted by the group-level resolution authority and the resolution authorities of subsidiaries, an explanation of how the measures proposed by the Union parent undertaking are assessed as not fit to remove the substantive impediments to resolvability and how the measures referred to in point (g) would effectively reduce or remove the substantive impediments to resolvability;

(i) a summary of views expressed by the authorities consulted in the joint decision process;

(j) where the EBA has been consulted during the joint decision process, an explanation of any deviation from the advice of the EBA.

Article 81
Reaching the joint decision

(1) The group-level resolution authority shall send the draft joint decision on measures to address substantive impediments to resolvability to the resolution authorities of subsidiaries without undue delay setting a time-limit for the resolution authorities of subsidiaries to provide their written agreement to that joint decision, which may be sent by electornic means of communication.

(2) Upon receipt of the draft joint decision the resolution authorities of subsidiaries not disagreeing with it shall transmit their written agreement to the group-level resolution authority within the time-limit set out in paragraph 1.

(3) The final joint decision shall consist of the joint decision document drafted in accordance with Article 80 and of the written agreements referred to in paragraph 2 of this Article and the one of the group-level resolution authority attached thereto and shall be provided to the resolution authorities of subsidiaries agreeing with the joint decision by the group-level resolution authority.

(4) The group-level resolution authority shall communicate the joint decision on measures to address substantive impediments to resolvability to the resolution college.

Article 82
Communication of the joint decision

(1) The group-level resolution authority shall communicate the joint decision to the management body of the Union parent undertaking in a timely manner and in any

event by the time-limit specified in the joint decision timetable pursuant to Article 77(2)(g). The group-level resolution authority shall inform the resolution authorities of subsidiaries about that communication.

(2) Where some of the measures taken in accordance to Article 17(5) and (6) of Directive 2014/59/EU are addressed to specific entities of the group other than the Union parent undertaking, the resolution authorities of subsidiaries shall provide to the management bodies of those entities under their jurisdiction the respective parts of the joint decision on measures to address substantive impediments to resolvability, in a timely manner and in any event by the time limit specified in the joint decision timetable pursuant to Article 77(2)(g).

(3) The group-level resolution authority may discuss details of the content and the application of the joint decision on measures to address substantive impediments to resolvability with the Union parent undertaking.

(4) The resolution authorities of subsidiaries may discuss details of the content and the application of the joint decision on measures to address substantive impediments to resolvability with the entities under their jurisdictions.

Article 83
Monitoring the application of the joint decision

(1) The group-level resolution authority shall communicate the outcome of the discussion, if any, referred to in Article 82(3) to the resolution authorities of subsidiaries.

(2) The resolution authorities of subsidiaries shall communicate the outcome of the discussion, if any, referred to in Article 82(4) to the group-level resolution authority.

(3) The group-level resolution authority and the resolution authorities of subsidiaries shall monitor the application of the joint decision on measures to address substantive impediments to resolvability that are relevant to each of the entities of the group for which they are respectively responsible.

Subsection 4
Process in the absence of joint decision on measures to address substantive impediments to resolvability

Article 84
Elements of communication of individual decisions

(1) In the absence of a joint decision on measures to address substantive impediments to resolvability as referred to in Article 18(6) of Directive 2014/59/EU, the decision taken by the group-level resolution authority shall be communicated in writing without undue delay to the resolution college members by means of a document containing all of the following items:

(a) the name of the group-level resolution authority taking the decision;

(b) the name of the Union parent undertaking to which the decision relates and applies;

(c) references to the applicable Union and national law relating to the preparation, finalisation and application of the decision;

(d) the date of the decision;

(e) the measures pursuant to Article 17(5) and (6) of Directive 2014/59/EU decided by the group-level resolution authority and the time limit within which those measures shall be addressed;

(f) where the measures proposed by the Union parent undertaking are not accepted or are partially accepted by the group-level resolution authority, an explanation of how the measures proposed by the Union parent undertaking are assessed as not fit to remove the substantive impediments to resolvability and how the measures set out in point (e) of this paragraph would effectively reduce or remove the substantive impediments to resolvability;

(g) the names of resolution college members and observers involved, in accordance with the terms and conditions of observers' participation, in the joint decision process on measures to address substantive impediments to resolvability along with a summary of the views expressed by these authorities and information on issues leading to disagreement;

(h) comments of the group-level resolution authority on the views expressed by the resolution college members and observers, in particular on issues leading to disagreement.

(2) Resolution authorities deciding on measures to be taken by subsidiaries at individual level in the absence of a joint decision shall transmit to the group-level resolution authority a document that contains all of the following items:

(a) the name of the resolution authority taking the decision;

(b) the name of the entities under the jurisdiction of the resolution authority to which the decision relates and applies;

(c) references to the applicable Union and to the national law relating to the preparation, finalisation and application of the decision;

(d) the date of the decision;

(e) the measures pursuant to Article 17(5) and (6) of Directive 2014/59/EU decided by the resolution authority and the time limit within which the respective entities shall address these measures;

(f) where the measures proposed by the subsidiaries in accordance with Article 17(3) and (4) of Directive 2014/59/EU are not accepted or are partially accepted by the resolution authorities of subsidiaries respectively, an explanation of how the measures proposed by these subsidiaries are assessed as not fit to remove the substantive impediments to resolvability and how the measures set out in point (e) of this paragraph would effectively reduce or remove the substantive impediments to resolvability;

(g) the name of the group-level resolution authority along with explanations on the reasons for disagreement with the measures proposed by the group-level resolution authority to address substantive impediments to resolvability.

(3) Where the EBA has been consulted, the decisions taken in the absence of a joint decision shall include an explanation as to why the advice of the EBA was not followed.

Article 85

Communication of individual decisions in the absence of joint decision

(1) In the absence of a joint decision between the group-level resolution authority and the resolution authorities of subsidiaries within the time period referred to in Article 18(5) of Directive 2014/59/EU, all decisions referred to in Article 18(6) and Article 18(7) of that Directive shall be communicated in writing by the relevant resolution authorities of subsidiaries to the group-level resolution authority by the latest of the following dates:

(a) the date one month after the expiry of the time period referred to in Article 18(5) of Directive 2014/59/EU, as applicable;

(b) the date one month after the provision of any advice by the EBA following a request for consultation in accordance with the second subparagraph of Article 18(5) of Directive 2014/59/EU;

(c) the date one month after any decision taken by the EBA in accordance with the third subparagraph of Article 18(6) or second subparagraph of Article 18(7) of Directive 2014/59/EU or any other date set by the EBA in such a decision.

(2) The group-level resolution authority shall communicate without undue delay its own decision and the decisions referred to in paragraph 1 to the other resolution college members.

SECTION II

JOINT DECISION PROCESS ON MINIMUM REQUIREMENTS FOR OWN FUNDS AND ELIGIBLE LIABILITIES

Subsection 1
Joint decision process

Article 86

Planning of the joint decision on minimum requirements for own funds and eligible liabilities

(1) Prior to the initiation of the joint decision on minimum requirements for own funds and eligible liabilities at consolidated, parent and each subsidiary level, the group-level resolution authority and the resolution authorities of subsidiaries shall agree on a timetable of steps to be followed in that process (hereinafter "minimum requirements for own funds and eligible liabilities joint decision timetable").

In case of disagreement, the group-level resolution authority shall set the minimum requirements for own funds and eligible liabilities joint decision timetable after considering the views and reservations expressed by the resolution authorities of subsidiaries.

For the purpose of taking in parallel the joint decision on minimum requirements with the development and maintenance of the group resolution plan as required by Article 45(15) of Directive 2014/59/EU, the minimum requirements for own funds and eligible liabilities joint decision timetable shall be organized taking into account the timetable for the joint decision on group resolution plan and resolvability assessment.

In particular, the group-level resolution authority and the resolution authorities of subsidiaries shall consider that the four-month period for the reach of the joint

decision on minimum requirements for own funds and eligible liabilities starts at the same time as the joint decision on group resolution plan and resolvability assessment.

(2) The minimum requirements for own funds and eligible liabilities joint decision timetable shall be updated on a regular basis and shall include at least the following steps:

(a) submission of the group-level resolution authority's proposal on the minimum requirements for own funds and eligible liabilities at consolidated and parent entity level to the resolution authorities of subsidiaries and to the consolidating supervisor;

(b) submission of resolution authorities of subsidiaries' proposals on the minimum requirements for own funds and eligible liabilities for the entities under their jurisdiction at individual level to the group-level resolution authority and the respective competent authorities;

(c) dialogue between the group-level resolution authority and the resolution authorities of subsidiaries on the proposed minimum requirements for own funds and eligible liabilities at consolidated, parent and each subsidiary level, as well as with the resolution authorities of jurisdictions where significant branches are established;

(d) preparation and submission by the group-level resolution authority of the draft joint decision on minimum requirements for own funds and eligible liabilities at consolidated, parent and each subsidiary level to the resolution authorities of subsidiaries;

(e) dialogue on the draft joint decision on minimum requirements for own funds and eligible liabilities at consolidated, parent and each subsidiary level with the Union parent undertaking and the subsidiaries of the group, where required by the legislation of a Member State;

(f) reaching the joint decision on minimum requirements for own funds and eligible liabilities at consolidated, parent and each subsidiary level;

(g) communication of the joint decision on minimum requirements for own funds and eligible liabilities at consolidated, parent and subsidiary level to the Union parent undertaking.

(3) The minimum requirements for own funds and eligible liabilities joint decision timetable shall:

(a) reflect the scope and complexity of each step of the joint decision process;

(b) take into account the timetable of other joint decisions organised within the resolution college;

(c) take into account, to the extent possible, the timetable of other joint decisions organised within the relevant supervisory college, in particular the timetable of the joint decisions on institution-specific prudential requirements in accordance with Article 113 of Directive 2013/36/EU;

The minimum requirements for own funds and eligible liabilities joint decision timetable shall be reviewed in light of and reflect the outcome of the resolvability assessment, especially when that assessment results in measures to remove or address substantive impediments to resolvability that may have immediate effect on the

minimum requirements for own funds and eligible liabilities at consolidated or entity level.

(4) When drafting the minimum requirements for own funds and eligible liabilities joint decision timetable, the group-level resolution authority shall have regard to the terms and conditions of the observers' participation as set out in the resolution college written arrangements and in the respective provisions of Directive 2014/59/EU.

(5) The group-level resolution authority and the resolution authorities of subsidiaries shall communicate to the Union parent undertaking and the entities of the group for which they are respectively responsible an indicative date for the dialogue referred to in paragraph 2(e), where relevant.

(6) The group-level resolution authority and the resolution authorities of subsidiaries shall communicate to the Union parent undertaking and the entities of the group for which they are respectively responsible an estimated date for the communication referred to in paragraph 2(g).

Article 87
Proposal at consolidated and Union parent undertaking level

(1) The group-level resolution authority shall communicate to the resolution authorities of subsidiaries and the consolidating supervisor its proposal on:

(a) the minimum requirement for own funds and eligible liabilities to be met, at all times, by the Union parent undertaking, unless use of waiver has been granted in accordance with Article 45(11) of Directive 2014/59/EU;

(b) the minimum requirement for own funds and eligible liabilities applied at consolidated level.

(2) The proposal referred to in paragraph 1 shall be reasoned, especially with regard to the assessment criteria referred to in points (a) to (f) of Article 45(6) of Directive 2014/59/EU.

(3) The group-level resolution authority shall indicate a time-limit for receipt of reasoned written comments by the consolidating supervisor, especially with regard to the assessment criteria referred to in points (a) to (f) of Article 45(6) of Directive 2014/59/EU. Where the consolidating supervisor does not provide any comments within the time-limit set, the group-level resolution authority shall presume that the consolidating supervisor does not have any comments on its proposal under paragraph 1.

(4) The group-level resolution authority shall provide as soon as possible to the resolution authorities of subsidiaries any comments submitted by the consolidating supervisor.

Article 88
Proposal at subsidiary level

(1) The resolution authorities of subsidiaries shall communicate to the group-level resolution authority and the respective competent authorities their proposal on the minimum requirement for own funds and eligible liabilities to be met, at all times, by the group's subsidiaries on an individual basis, unless use of waivers has been granted in accordance with Article 45(12) of Directive 2014/59/EU.

(2) The proposal referred to in paragraph 1 shall be reasoned, especially with regard to the assessment criteria referred to in points (a) to (f) of Article 45(6) of Directive 2014/59/EU.

(3) The resolution authorities of subsidiaries shall agree with the group-level resolution authority and indicate a time-limit for receipt of written and fully reasoned comments from the competent authorities in their jurisdiction, especially with regard to the assessment criteria referred to in points (a) to (f) of Article 45(6) of Directive 2014/59/EU. Where the competent authorities do not provide any comments within that time-limit set, the resolution authorities of the subsidiaries shall presume that these competent authorities do not have any comments on the respective proposals under paragraph 1.

(4) The resolution authorities of subsidiaries shall provide as soon as possible to the group-level resolution authority any comments submitted by the competent authorities.

Article 89

Dialogue on the proposed minimum requirements for own funds and eligible liabilities

(1) The group-level resolution authority shall organise a dialogue with the resolution authorities of subsidiaries on the proposed minimum requirements for own funds and eligible liabilities at consolidated, parent and each subsidiary level.

(2) The group-level resolution authority and the resolution authorities of subsidiaries shall discuss the reconciliation of the proposed minimum requirements for own funds and eligible liabilities at consolidated level with the proposed requirements at the level of the parent and of each subsidiary.

Article 90

Drafting the joint decision on minimum requirements for own funds and eligible liabilities

(1) The group-level resolution authority shall prepare a draft joint decision on minimum requirements for own funds and eligible liabilities at consolidated, parent and each subsidiary level, taking into account the use of waivers, if any, under Article 45(11) or (12) of Directive 2014/59/EU. The draft joint decision shall set out all of the following items:

(a) the names of the group-level resolution authority and the resolution authorities of subsidiaries reaching the joint decision on the minimum requirements for own funds and eligible liabilities at consolidated, parent and each subsidiary level;

(b) the names of the consolidating supervisor and other competent authorities that have been consulted;

(c) the names of the observers where those observers were involved in the joint decision process in accordance with the terms and conditions of observers' participation as noted in the written arrangements;

(d) the name of the Union parent undertaking and the group entities to which the joint decision relates and applies;

(e) the references to the applicable Union and national law relating to the preparation, finalisation and reach of the joint decision; references to any additional criteria provided by the Member States on the basis of which the

minimum requirement for own funds and eligible liabilities shall be determined;

(f) the date of the draft joint decision, and of any relevant update thereto;

(g) the minimum requirement on own funds and eligible liabilities at consolidated level, and a time-limit to reach that level, where applicable, along with appropriate reasoning for setting the minimum requirement on own funds and eligible liabilities at that level having regard to the assessment criteria referred to in Article 45(6)(a) to (f) of Directive 2014/59/EU;

(h) the minimum requirement on own funds and eligible liabilities at the level of the Union parent undertaking, unless use of waivers in accordance with Article 45(11) of Directive 2014/59/EU is granted, and a time-limit to reach that level, where applicable, along with appropriate reasoning for setting the minimum requirement on own funds and eligible liabilities at that level having regard to the assessment criteria referred to in Article 45(6)(a) to (f) of Directive 2014/59/EU;

(i) the minimum requirement on own funds and eligible liabilities at each subsidiary on an individual basis, unless use of waivers in accordance with Article 45(12) of Directive 2014/59/EU has been granted, and a time limit to reach that level, where applicable, along with appropriate reasoning for setting the minimum requirement on own funds and eligible liabilities at that level having regard to the assessment criteria referred to in Article 45(6)(a) to (f) of Directive 2014/59/EU.

(2) Where the decision that relates to the minimum requirement on own funds and eligible liabilities provides that this is partially met at consolidated or individual level for the Union parent undertaking or any of the group's subsidiaries through contractual bail-in instruments, the decision shall also include details demonstrating the satisfaction of the resolution authorities that the instruments qualify as contractual bail-in instruments in accordance with the criteria set out in Article 45(14) of Directive 2014/59/EU.

Article 91

Reaching the joint decision on minimum requirements for own funds and eligible liabilities

(1) The group-level resolution authority shall send the draft joint decision on minimum requirements for own funds and eligible liabilities at consolidated, parent and each subsidiary level to the resolution authorities of subsidiaries without undue delay setting a time-limit for the resolution authorities of subsidiaries to provide their written agreement, to that joint decision, which may be sent by electronic means of communication.

(2) Upon receipt of the draft joint decision the resolution authorities of subsidiaries not disagreeing with it shall transmit their writtenn agreement to the group-level resolution authority within the time-limit set out in paragraph 1.

(3) The final joint decision shall consist of the joint decision document drafted in accordance with Article 90 and of the written agreements referred to in paragraph 2 of this Article and the one of the group-level resolution authority attached thereto and shall be provided to the resolution authorities of subsidiaries agreeing with the joint decision by the group-level resolution authority.

(4) The group-level resolution authority shall communicate the joint decision on minimum requirements for own funds and eligible liabilities at consolidated, parent and each subsidiary level to the resolution college.

Article 92

Communication of the joint decision on minimum requirements for own funds and eligible liabilities

(1) The group-level resolution authority shall communicate the joint decision to the management body of the Union parent undertaking in a timely manner and in any event before the time-limit specified in the joint decision timetable pursuant to Article 86(3)(g). The group-level resolution authority shall inform the resolution authorities of subsidiaries about this communication.

(2) The resolution authorities of subsidiaries shall provide to the management bodies of the entities under their jurisdiction the respective parts of the joint decision, in a timely manner and in any event within the time-limit specified in the joint decision timetable pursuant to Article 86(3)(g).

(3) The group-level resolution authority may discuss details of the content and the application of the joint decision with the Union parent undertaking.

(4) The resolution authorities of subsidiaries may discuss details of the content and the application of the respective parts of the joint decision with the entities under their jurisdictions.

Article 93

Monitoring the application of the joint decision on minimum requirements for own funds and eligible liabilities

(1) The group-level resolution authority shall communicate the outcome of the discussion referred to in Article 92(3) to resolution authorities of subsidiaries where the Union parent undertaking is required to take specific actions in order to meet the minimum requirement for own funds and eligible liabilities at consolidated or individual basis.

(2) The resolution authorities of subsidiaries shall communicate the outcome of the discussion referred to in Article 92(4) to the group-level resolution authority where the group's subsidiaries under their jurisdiction are required to take specific actions in order to meet the minimum requirement for own funds and eligible liabilities at consolidated or individual basis.

(3) The group-level resolution authority shall forward the outcome of the process referred to in paragraph 2 to the other resolution authorities of subsidiaries.

(4) The group-level resolution authority and the resolution authorities of subsidiaries shall monitor the application of the joint decision on minimum requirements for own funds and eligible liabilities at consolidated, parent and each subsidiary level, for all entities of the group subject to the joint decision, and at consolidated level.

Subsection 2
Process in the absence of joint decision at consolidated level

Article 94
Joint decisions taken at each subsidiary level in the absence of a joint decision at consolidated level

In the absence of a joint decision at consolidated or parent entity level in accordance with Article 45(9) of Directive 2014/59/EU, the group-level resolution authority and the resolution authorities of subsidiaries shall endeavour to reach a joint decision on the level of the minimum requirement of own funds and eligible liabilities to be applied to each respective subsidiary at individual level.

The joint decision shall take into account the minimum requirement on own funds and eligible liabilities set at consolidated and parent entity level by the group-level resolution authority, and shall follow all steps**,** other than the ones concerning setting up the minimum requirements for own funds and eligible liabilities at consolidated or parent entity level, of Articles 90 to 93, for drafting, reaching, communicating and monitoring the application of the joint decision on the level of the minimum requirement of own funds and eligible liabilities to be applied to each respective subsidiary at an individual level.

Article 95
Elements of communication of individual decisions

(1) In the absence of a joint decision, the decision on the minimum requirements for own funds and eligible liabilities at consolidated and parent entity level taken by the group-level resolution authority shall be communicated in writing to the resolution college members by means of a document that contains all of the following items:

(a) the name of the group-level resolution authority;

(b) the name of the Union parent undertaking and the names of other entities in that jurisdiction to which the joint decision applies;

(c) references to the applicable Union and national law relating to the preparation, finalisation and application of the decision and in particular references to any additional criteria provided by the Member State, in which the Union parent undertaking is authorised, on the basis of which the minimum requirement for own funds and eligible liabilities are determined;

(d) the date of the decision;

(e) the minimum requirement on own funds and eligible liabilities at consolidated level, and a time-limit to reach that level, where applicable, along with appropriate reasoning for setting the minimum requirement on own funds and eligible liabilities at that level, having regard to the assessment criteria referred to in Article 45(6)(a) to (f) of Directive 2014/59/EU;

(f) the minimum requirement on own funds and eligible liabilities at the level of the Union parent undertaking, unless use of waivers in accordance to Article 45(11) is granted, and a time-limit to reach that level, where applicable, along with appropriate reasoning for setting the minimum requirement on own funds and eligible liabilities at that level, having regard to the assessment criteria referred to in Article 45(6)(a) to (f) of Directive 2014/59/EU;

(g) the names of the resolution college members and observers involved, in accordance with the terms and conditions of observers' participation, in the joint decision process, along with a summary of the views expressed by those authorities and information on issues leading to disagreement;

(h) comments of the group-level resolution authority on the views expressed by the resolution college members and observers, in particular on issues leading to disagreement;

(i) where the decision that relates to the minimum requirement on own funds and eligible liabilities provides that such requirement is partially met at consolidated or individual level for the Union parent undertaking through contractual bail-in instruments, the decision shall also include details demonstrating the satisfaction of the group-level resolution authority that the instruments qualify as a contractual bail-in instruments in accordance to the criteria set in Article 45(14) of Directive 2014/59/EU.

(2) In the absence of a joint decision, the resolution authorities of subsidiaries taking their own decisions on the minimum requirement of own funds and eligible liabilities at individual level shall transmit to the group-level resolution authority a document that contains all of the following items:

(a) the name of the resolution authority of the subsidiary taking the decision;

(b) the name of the group's subsidiaries under its jurisdiction to which the decision relates and applies;

(c) references to the applicable Union and national law relating to the preparation, finalisation and application of the decision and in particular, references to any additional criteria provided by the Member States, in which those group's subsidiaries are authorised, on the basis of which the minimum requirement for own funds and eligible liabilities are determined;

(d) the date of the decision;

(e) the minimum requirement on own funds and eligible liabilities to be applied to the subsidiary at individual level, and a time-limit to reach that level, where applicable, along with appropriate reasoning for setting the minimum requirement on own funds and eligible liabilities at that level having regard to the assessment criteria referred to in Article 45(6)(a) to (f) of Directive 2014/59/EU;

(f) the name of the group-level resolution authority along with a summary of the views it expressed and information on issues leading to disagreement;

(g) comments of the resolution authority of the subsidiary on the views expressed by the group-level resolution authority, in particular on issues leading to disagreement;

(h) where the decision that relates to the minimum requirement on own funds and eligible liabilities provides that such requirement is partially met at the subsidiary level through contractual bail-in instruments, the decision shall also include details demonstrating the satisfaction of the respective resolution authority of the subsidiary that the instruments qualify as a contractual bail-in instruments in accordance to the criteria set in Article 45 (14) of Directive 2014/59/EU.

(3) Where the EBA has been consulted, the decisions taken in the absence of a joint decision shall include an explanation as to why the advice of the EBA was not followed.

Article 96
Communication of individual decisions in the absence of joint decision

(1) In the absence of a joint decision on minimum requirements for own funds and eligible liabilities at consolidated, parent and each subsidiary level between the group-level resolution authority and the resolution authorities of subsidiaries within the time period referred to in Article 45(9) or (10) of Directive 2014/59/EU, all decisions taken shall be communicated in writing by the relevant resolution authorities of subsidiaries to the group-level resolution authority by the latest of the following dates:

(a) the date one month after the expiry of the time period referred to in Article 45(9) or (10) of Directive 2014/59/EU, as applicable;

(b) the date one month after the provision of any advice by the EBA following a request for consultation in accordance with the second subparagraph of Article 18(5) of Directive 2014/59/EU;

(c) the date one month after any decision taken by the EBA in accordance with the third subparagraph of Article 45(9) or the fifth subparagraph of Article 45(10) of Directive 2014/59/EU or any other date set by the EBA in such a decision.

(2) The group-level resolution authority shall communicate without undue delay its own decision and the decisions referred to in paragraph 1 to the other resolution college members.

SECTION III
CROSS-BORDER GROUP RESOLUTION

Subsection 1
Decision on the need for a group resolution scheme under Articles 91 and 92 of Directive 2014/59/EU

Article 97
Process for deciding on the need for a group resolution scheme

The process for the assessment of the need for a group resolution scheme shall comprise the following steps to be implemented:

(1) dialogue, where possible, on the need for a group resolution scheme and for mutualising financing arrangements;

(2) draft assessment or draft decision on the need for a group resolution scheme by the group-level resolution authority and communication to the members of the resolution college;

(3) consultation on the draft assessment or draft decision on the need for a group resolution scheme among the members of the resolution college;

(4) finalisation of the assessment or the decision on the need for a group resolution scheme and communicating to the resolution college.

Article 98

Dialogue on the need for a group resolution scheme

(1) After receiving the notification referred to in point (a) or (h) of Article 81(3) of Directive 2014/59/EU, the group-level resolution authority shall endeavour to organise a dialogue in accordance with paragraphs 2 and 3 of this Article involving at least those members of the college who are the resolution authorities of the subsidiaries.

(2) For the purposes of paragraph 1, the group-level resolution authority shall transmit the following information to the members :

(a) the notification received;

(b) its proposal on the topics referred to in paragraph 3;

(c) the time-limit by which the dialogue should be concluded.

(3) The dialogue shall concern the following:

(a) whether, in accordance with Article 91 or 92 of Directive 2014/59/EU, the resolution of the subsidiary, or of the Union parent undertaking respectively, would have group dimensions and would require the drawing up of a group resolution scheme;

(b) whether the financing plan shall be based on mutualisation of national financing arrangements in accordance with Article 107 of Directive 2014/59/EU.

Article 99

Preparation and communication of the draft assessment or draft decision on the need for a group resolution scheme

(1) For the purposes of assessing the need for a group resolution scheme in the context of paragraphs 1 to 4 of Article 91 of Directive 2014/59/EU, the group-level resolution authority shall prepare its draft assessment following receipt of the notification referred to in Article 91(1) of that Directive.

(2) For the purposes of deciding that a group resolution scheme is not needed, as referred to in Article 92(2) of Directive 2014/59/EU, the group-level resolution authority shall prepare its draft decision after assessing that the Union parent undertaking meets the conditions referred to in Articles 32 and 33 of that Directive and that none of the conditions referred to in points (a) to (d) of Article 92(1) of Directive 2014/59/EU applies.

(3) The group-level resolution authority shall take into account the outcome of the dialogue, where applicable, for preparing the draft assessment or decision.

(4) The group-level resolution authority shall provide its draft assessment or decision to the resolution college setting out:

(a) for the purposes of Article 91 of Directive 2014/59/EU, its opinion on the likely impact of the notified resolution actions or of the insolvency measures on the group and on group entities in other Member States, and, in particular, whether the resolution actions or the other measures would make it likely that the conditions for resolution would be satisfied in relation to a group entity in another Member State;

(b) for the purposes of Article 92 of Directive 2014/59/EU, its opinion on the non-applicability of any of the conditions for a group resolution scheme as referred to in Article 92(1) of that Directive taking due account of conditions referred to in paragraph 2 of that Article;

(c) its opinion on the need to mutualize the financing arrangements for the purposes of the financing plan in accordance with Article 107 of Directive 2014/59/EU.

(5) The group-level resolution authority shall attach to its draft assessment or decision all relevant material information, which it has received under Article 81, 82, 91 or 92 of Directive 2014/59/EU and shall set a clear time-limit by which members of the resolution college shall express concerns or views divergent from the draft assessment or decision.

(6) The draft assessment or decision shall be prepared and communicated by the group-level resolution authority to the resolution college, without undue delay and, where applicable, respecting the time limit set out in Article 91 of Directive 2014/59/EU.

Article 100

Consultation on the draft assessment or decision on the need for a group resolution scheme

(1) The members of the resolution college receiving the draft assessment or draft decision shall express their material diverging views or concerns, if any.

(2) Material divergent views and concerns shall be clearly set out in writing, which may be submitted in electronic format, and shall be fully reasoned.

(3) Material divergent views and concerns shall only be expressed, without undue delay recognising the urgency of the situation and by the set time-limit.

(4) Upon expiry of the time-limit, the group-level resolution authority shall presume consent of the members who did not express any material divergent views or concerns.

Article 101

Finalisation of the assessment or the decision on the need for a group resolution scheme

(1) Upon expiry of the time limit for consultation, and without undue delay taking into account the time limit set out in Article 91 of Directive 2014/59/EU, where applicable, the group-level resolution authority shall finalise its assessment or decision on the need for a group resolution scheme.

The final assessment or decision shall also include an opinion on the need to mutualise national financing arrangements for the purposes of the financing plan in accordance with Article 107 of Directive 2014/59/EU and it shall take into account concerns and divergent views expressed during consultation with amendments as appropriate.

(2) The group-level resolution authority shall provide reasoning for the assessment or for the decision that a group resolution scheme is not needed only if material divergent views and concerns had been raised during consultation.

(3) The group-level resolution authority shall provide an explanation as to why the final assessment did not follow the advice of EBA, if EBA has been consulted.

(4) The group-level resolution authority shall, without undue delay, communicate its final assessment or decision to the members of the resolution college involved in the process.

(5) Where it considers that a group resolution scheme is needed, the group-level resolution authority may decide not to communicate its final assessment or decision as provided for in paragraph 4 and proceed to apply the procedure for preparing the group resolution scheme set out in Article 102.

Subsection 2
Joint decision process on the group resolution scheme

Article 102
Process of the joint decision on the group resolution scheme

The process to reach a joint decision on the group resolution scheme proposed under Article 91(4) or Article 92(1) of Directive 2014/59/EU shall comprise the following steps to be implemented:

(1) preparation of the draft group resolution scheme by the group-level resolution authority and communication to the resolution college members;

(2) consultation on the draft group resolution scheme at least among the resolution authorities of the entities covered by the group resolution scheme;

(3) preparation and communication of the joint decision on the group resolution scheme, by the group-level resolution authority to the resolution authorities of the subsidiaries covered by the group resolution scheme;

(4) finalisation of the joint decision on the group resolution scheme pursuant to Article 91(7) or of Article 92(3) of Directive 2014/59/EU;

(5) communication of the outcome of the joint decision to the resolution college members.

Article 103
Preparation and communication of the draft group resolution scheme

(1) The draft group resolution scheme shall be drawn up by the group-level resolution authority in accordance with Article 91(6) of Directive 2014/59/EU and shall include the following elements:

(a) a description of the measures, if any, that need to be implemented in order to ensure that the group resolution scheme can be operationalized;

(b) a description of legal or regulatory preconditions to be fulfilled, if any, for carrying out the group resolution scheme;

(c) the timeframe for executing the group resolution scheme as well as the timing and sequencing of each resolution action to be undertaken;

(d) the allocation of tasks and responsibilities for the coordination of the resolution actions, external communication and internal communication to the members of the resolution college and contact information of the members of the resolution college;

(e) a financing plan, on the basis of Article 107 of Directive 2014/59/EU, as appropriate and taking into account the need for mutualisation of the financing arrangements.

(2) For the purposes of point (a) of Article 91(6) of Directive 2014/59/EU, the group-level resolution authority shall ensure that the draft group resolution scheme includes:

(a) an explanation why an alternative option to the resolution plan, pursuant to Article 13 of Directive 2014/59/EU, must be followed, including why the proposed actions are considered to more efficiently achieve the resolution objectives and principles referred to in Articles 31 and 34 of that Directive than the strategy and resolution actions provided for in the resolution plan;

(b) an identification and description of elements of the group resolution scheme which depart from the resolution plan referred to Article 13 of Directive 2014/59/EU.

(3) The group-level resolution authority shall provide the draft resolution scheme to the members of the resolution college, without undue delay and with a time-limit:

(a) for consultation in accordance with Article 104;

(b) for finalising the joint decision on the group resolution scheme in accordance with Article 106.

(4) The group-level resolution authority shall develop and communicate the draft group resolution scheme without undue delay and taking into account the time limits of Article 91 of Directive 2014/59/EU where applicable.

(5) The group-level resolution authority shall ensure that the time-limits set out in paragraph 3 shall be adequate for the authorities to express their views taking into account the time limit set out in Article 91 of Directive 2014/59/EU, as applicable.

Article 104
Consultation on the group resolution scheme

(1) The members of the resolution college receiving the draft group resolution scheme in accordance with Article 103(3) shall express their material diverging views or concerns, if any.

(2) Material divergent views and concerns may address all aspects of the draft group resolution scheme, including:

(a) impediments, if any, in national law or otherwise to carrying out the group resolution scheme in accordance with the strategy and resolution actions;

(b) any relevant updates to the information submitted for the mutualisation of the financing arrangements that could impact carrying out the financing plan;

(c) the impact of the group resolution scheme or of the financing plan on the subsidiaries covered by the group resolution scheme in their respective Member State.

(3) Material divergent views and concerns shall be clearly set out in writing, which may include electronic format, and shall be fully reasoned.

Material divergent views and concerns shall be expressed without undue delay recognising the urgency of the situation and by the time-limit set in Article 103(3).

(4) Upon expiry of the time-limit, the group-level resolution authority shall presume that all members who did not express divergent views or concerns have agreed to the group resolution scheme.

Article 105

Preparation and communication of the joint decision on the group resolution scheme

(1) Upon expiry of the time limit for consultation, the group-level resolution authority shall prepare the draft joint decision on the group resolution scheme in accordance with Articles 91 and 92 of Directive 2014/59/EU and, as applicable, Article 107 thereof.

(2) For the draft joint decision, the group-level resolution authority shall consider and take into account all concerns and divergent views expressed during the consultation and it shall make amendments to the group resolution scheme as appropriate.

(3) The group-level resolution authority shall provide reasoning on:

(a) how it has handled the material divergent views and concerns expressed by the resolution authorities of the subsidiaries covered by the group resolution scheme for the purposes of the draft joint decision;

(b) why and to what extent the advice of the EBA was not followed in the group resolution scheme, if a consultation with the EBA has been held.

(4) The draft joint decision shall include the following elements:

(a) the names of the group-level resolution authority and the resolution authorities responsible for the subsidiaries covered by the group resolution scheme;

(b) the name of the Union parent undertaking and a list of all entities within the group to which the group resolution scheme relates to and applies;

(c) the references to the applicable Union and national law relating to the preparation, finalisation and application of the joint decision on the group resolution scheme;

(d) the date of the draft joint decision on the group resolution scheme;

(e) the final group resolution scheme, including any reasoning if needed in accordance with paragraph 3.

(5) The group-level resolution authority shall send the draft joint decision on the group resolution scheme without undue delay to the resolution authorities of the entities covered by the group resolution scheme setting a time limit for providing their agreement to the joint decision on the group resolution scheme.

Article 106

Finalising the joint decision on the group resolution scheme

(1) The resolution authorities receiving the joint decision in accordance with Article 105 (5) and not disagreeing with it shall provide to the group-level resolution authority written evidence of their agreement, which may be sent by electronic means, before the established time limit.

(2) The final joint decision on the group resolution scheme shall consist of the final joint decision and the written evidence of agreement attached thereto.

Article 107
Communication of the joint decision to the college

(1) The final joint decision shall be transmitted without undue delay by the group-level resolution authority to the resolution authorities of the subsidiaries covered by the group resolution scheme.

(2) A summary of the joint decision on the group resolution scheme shall be communicated by the group-level resolution authority to members of the resolution college.

Subsection 3
Disagreements and decisions taken in the absence of joint decision

Article 108
Notification in case of disagreement

(1) Where a resolution authority disagrees with or departs from the group resolution scheme proposed by the group-level resolution authority or considers that it needs to take independent resolution actions or measures for reasons of financial stability pursuant to Article 91(8) and Article 92 (4) of Directive 2014/59/EU, that resolution authority shall notify the group-level resolution authority of the disagreement without undue delay.

(2) The notification referred to in paragraph 1 shall include the following:

(a) the name of the resolution authority;

(b) the name of the entity under the jurisdiction of the resolution authority;

(c) the date of the notification;

(d) the name of the group-level resolution authority;

(e) a statement of the resolution authority on its disagreement, or departure from the group resolution scheme, or of its consideration that independent resolution actions or measures are appropriate for the entity or entities under its jurisdiction;

(f) a detailed reasoning for the elements of the group resolution scheme with which the resolution authority is in disagreement, or from which it departs, or an explanation of why it considers that independent resolution action or measures are appropriate;

(g) a detailed description of the actions or measures that the resolution authority will take, including the timing and sequencing of actions.

(3) The group-level resolution authority shall notify the other members of the resolution college of the notification referred to in paragraph 2.

Article 109
Decision making process between non disagreeing resolution authorities

(1) Resolution authorities which do not disagree as set out in Article 91(9) and Article 92 (5) of Directive 2014/59/EU shall proceed as provided for in Articles 106 and 107 of this Regulation and conclude a joint decision among themselves.

(2) The joint decision shall contain all the elements referred to in Articles 106 and 107 in addition to the information on disagreement received in accordance with Article 108(2).

Chapter SEVEN
FINAL PROVISIONS

Article 110

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 23.3.2016

For the Commission
The President
Jean-Claude JUNCKER