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REPORT

From:	Presidency
To:	Council
Subject:	**Single Resolution Mechanism** **- Proposal for a Regulation of the European Parliament and of the Council 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 Bank Resolution Fund and amending Regulation (EU) No 1093/2010 of the European Parliament and of the Council [First reading]** ***- approval of the final compromise text***

Delegations will find attached the latest available compromise text of the SRM Regulation (22:30; 26 March 2014).

		COMPROMISE TEXT
		THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
1.		Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,
2.		Having regard to the proposal from the European Commission,
3.		After transmission of the draft legislative act to the national parliaments,
4.		Having regard to the opinion of the European Central Bank[1],
5.		Having regard to the opinion of the European Economic and Social Committee[2],
6.		Acting in accordance with the ordinary legislative procedure[3],
7.		Whereas:
8.	Rec. 1	(1) Over the past decades the Union has made progress in creating an internal market for banking services. Having a better integrated internal market for banking services is essential in order to foster economic growth in the Union and adequate funding of the real economy. However, the financial and economic crisis has shown that the functioning of the internal market in this area is under threat and that there is an increasing risk of financial fragmentation. ***This is a real source of concern in an internal market in which*** **banks should be able to carry out significant cross-border activities.** Interbank markets have become less liquid and cross-border bank activities are decreasing due to fear of contagion, lack of confidence in other national banking systems and in the ability of Member States to support banks.
9.	Rec. 1a (new)	(1a) The European Council on 19 December 2012 concluded that "In the light of the fundamental challenges facing it, the Economic and Monetary Union needs to be strengthened to ensure economic and social welfare as well as stability and sustained prosperity" and "that the process towards deeper economic and monetary union should build on the Union institutional and legal framework and be characterised by openness and transparency towards Member States whose currency is not the euro and by respect for the integrity of the internal market". To this end a banking union is established, underpinned by a comprehensive and detailed single rulebook for financial services for the internal market as a whole. The process towards establishing a banking union is characterised by openness and transparency towards non-participating Member States and by respect for the integrity of the Single Market.

1 OJ C ....
2 OJ C ....
3 Position of the European Parliament of ....

		(1b) The European Parliament in its resolution of 7 July 2010 with recommendations to the Commission on Cross-Border Crisis Management in the Banking Sector **requested "the Commission to submit [...] on the basis of Articles 50 and 114 of the Treaty on the Functioning of the European Union, one or more legislative proposals relating to an EU crisis-management framework, an EU financial stability fund (Fund), and a resolution unit" and, in its resolution of 20 November 2012 with recommendations to the Commission on the report of the Presidents of the European Council, the European Commission, the European Central Bank and the Eurogroup 'Towards a genuine Economic and Monetary Union', stated that "breaking up the negative feedback loops between sovereigns, banks and the real economy is crucial for a smooth functioning of the EMU", stressed the "urgent need for additional and far-reaching measures to solve the crisis in the banking sector" and for the "realisation of a fully operational European banking union;" while ensuring "the continued proper functioning of the internal market for financial services and the free movement of capital".**
10.	Rec. 1b (new)	(**1c**) As a first step towards a banking union the single supervisory mechanism established by Council Regulation (EU) No …/… [4] (the SSM) should ensure that the Union's policy relating to the prudential supervision of credit institutions is implemented in a coherent and effective manner, that the single rulebook for financial services is applied in the same manner to credit institutions in the participating Member States, and that those credit institutions are subject to supervision of the highest quality.
11.	Rec. 2	(2) Divergences in national resolution rules between different Member States and corresponding administrative practices and the lack of a unified decision making process for resolution **in the banking union** contribute to this lack of confidence and market instability, as they do not ensure predictability as to the possible outcome of a bank failure.
12.	Rec. 3	(3) In particular, the different **incentives and** practices of Member States in the treatment of creditors of banks in resolution and in the bail-out of failing banks **with tax-payers money** have an impact on the perceived credit risk, financial soundness and solvency of their banks **and thus create an un-level playing field**. This undermines public confidence in the banking sector and obstructs the exercise of the freedom of establishment and the free provision of services within the internal market because financing costs would be lower without such differences in practices of Member States.

[4] Council Regulation (EU) No …/… of ….. conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions.

13.	Rec. 4	(4) Divergences in national resolution rules between different Member States and corresponding administrative practices may lead banks and customers to have higher borrowing costs only because of their place of establishment and irrespective of their real creditworthiness. In addition, customers of banks in some Member States face higher borrowing rates than customers of banks in others irrespective of their own creditworthiness.
14.	Rec. 4a (new)	**(4a) More efficient resolution mechanisms are an essential instrument to avoid damages that have resulted from banking failures in the past.**
15.	Rec. 4b (new)	***[…]***
16.	Rec. 5	(5) As long as resolution rules, practices and approaches to burden-sharing remain national and the financial resources needed for funding resolution are raised and spent at national level, the internal market will remain fragmented. Moreover, national supervisors have strong incentives to minimise the potential impact of bank crises on their national economies by adopting unilateral action to ring-fence banking operations, for instance by limiting intra-group transfers and lending, or by imposing higher liquidity and capital requirements on subsidiaries in their jurisdictions of potentially failing parent undertakings**.** This restricts the cross-border activities of banks and thus creates obstacles to the exercise of fundamental freedoms and distorts competition in the internal market. ***Contentious home-host issues,*** **while being addressed in the SSM and BRRD context, may still** ***reduce efficiency in cross-border resolution processes***.
17.	Rec. 6	(6) To address these issues it has been necessary to intensify the integration of the resolution framework for credit institutions and investment firms in order to bolster the Union, restore financial stability and lay the basis for economic recovery. Directive [ ] of the European Parliament and of the Council[5] ***is a decisive step towards*** ~~**full**~~ ***harmonisation of*** bank resolution rules across the Union and provides for cooperation among resolution authorities when dealing with the failure of cross-border banks. However, Directive [..] establishes minimum harmonisation rules and does not lead to centralisation of decision making in the field of

[5] ***Directive 2014/.../EU of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directives 77/91/EEC and 82/891/EC, Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC and 2011/35/EC and Regulation (EU) No 1093/2010 (OJ L ...) .***

		resolution. Directive [ ] essentially provides for common resolution tools and powers available for the national authorities of every Member State but leaves discretion to national authorities in the application of the tools and in the use of national financing arrangements in support of resolution procedures. This ensures that authorities have the tools to intervene early and quickly in an unsound or failing institution so as to ensure the continuity of the institution's critical financial and economic functions while minimizing the impact of an institution's failure on the financial system. ***Despite attributing regulatory and mediation tasks to the European Supervisory Authority (European Banking Authority) ('EBA'), established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council[6],*** Directive [ ] does not ***completely*** avoid the taking of separate and potentially inconsistent decisions by Member States regarding the resolution of cross-border groups which may affect the overall costs of resolution. Moreover, as it provides for national financing arrangements, it does not sufficiently reduce the dependence of banks on the support from national budgets and does not ***completely*** prevent different approaches by Member States to the use of the financing arrangements.
18.	Rec. 6aa (new)	(6aa) The Single Resolution Mechanism (SRM) will **ensure a neutral approach in dealing with failing banks and therefore** increase stability of the banks in the participating Member States and prevent the spill-over of crises to non-participating Member States and will thus facilitate the functioning of the whole of the internal market.
19.	Rec. 6a (new)	(6a) The establishment of a centralised power of resolution (the Single Resolution Mechanism), for participating Member States entrusted to the Board and the national resolution authorities, is an integral part of the process of harmonisation in the field of resolution operated by Directive (BRRD) and by the set of uniform provisions on resolution set out in this Regulation. The uniform application of the resolution regime in the participating Member States will be enhanced as a result of it being entrusted to a central authority such as the Single Resolution Mechanism. Furthermore, the Single Resolution Mechanism is imbricated to the process of harmonisation in the field of prudential supervision, brought about by the establishment of the European Banking Authority, the single rule book on prudential supervision (Regulation 575/2013 and Directive 2013/36), and, in the participating Member States, the establishment of a Single Supervision Mechanism to which the application of Union prudential supervision rules is entrusted. Supervision and resolution are two complementary aspects of the establishment of the internal market for financial services whose application at the same level is regarded as mutually dependant.

[6] ***Regulation (EU) No 1093/2010 of the European Parliament and of the Council 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).***

20.	Rec. 7	(7) Ensuring effective uniform resolution decisions for failing banks within the Union, including on the use of funding raised at Union level, is essential for the completion of the internal market in financial services. Within the internal market, the failure of banks in one Member State may affect the stability of the financial markets of the whole Union. Ensuring effective and uniform resolution rules and equal conditions of resolution financing across Member States is in the best interest not only of the Member States in which banks operate, but also of all Member States in general as a means to preserve competition and improve the functioning of the internal market. Banking systems in the internal market are highly interconnected, bank groups are international and banks have a large percentage of foreign assets. In the absence of a single resolution mechanism, bank crises in Member States participating in the Single Supervisory Mechanism (SSM) would have stronger negative systemic impact also in non-participating Member States. The establishment of *SRM* will increase stability of the banks of the participating Member States and prevent the spill-over of crises into non-participating Member States and will thus facilitate the functioning of the whole of the internal market. ***The mechanisms for cooperation regarding institutions established in both participating and non-participating Member States should be clear, and*** no Member State or group of Member States should be discriminated against, directly or indirectly, as a venue for financial services**.**
21.	Rec. 7a (new)	***(7a) In order to restore trust and credibility in the banking sector, the European Central Bank (ECB) will conduct a comprehensive balance sheet assessment of all banks supervised directly.*** **Such an assessment should assure all stakeholders that banks entering the SSM, and therefore falling within the scope of the SRM, are fundamentally sound and trustworthy.**
22.	Rec. 7b (new)	***[…]***
23.	Rec. 8	(8) Following the establishment of the SSM by Council Regulation (EU) No …/… [7] where banks in the participating Member States are supervised **either centrally** by the European Central Bank (ECB) **or by** the national competent authorities in the framework of the SSM, there is a misalignment between the Union supervision of such banks and the national treatment of those banks in the resolution proceedings pursuant to Directive [ ] which will be addressed by the establishment of the SRM.
24.	Rec. 8a (new)	***[…]***

[7] Council Regulation (EU) No …/… of ….. conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions.

25.	Rec. 8a (new)	(8a) The Regulation only applies in respect of banks whose home supervisor is the ECB or the national competent authority in Member States whose currency is the euro or in Member States whose currency is not the euro which have established a close cooperation in accordance with Article 7 of Council Regulation (SSM). The scope of application of the Regulation is linked to the scope of application of the SSM. Indeed, bearing in mind the important level of imbrication between the supervision tasks attributed to the SSM and resolution action, the establishment of a centralised system of supervision operated under Article 127(6) TFEU bears a fundamental importance in the process of harmonisation of resolution for participating Member States. The fact of being subject to supervision by the SSM constitutes a specific attribute that places the entities falling within the scope of application of the Regulation in an objectively and characterised distinct position for resolution purposes.
26.	Rec. 9	(9) Whilst banks in Member States remaining outside the SSM are subject to supervision, resolution and financial backstop arrangements which are aligned at national level, banks in Member States participating in the SSM are subject to Union arrangements for supervision and national arrangements for resolution and financial backstops. Because supervision and resolution are at two different levels within the SSM, intervention and resolution in banks in the Member States participating in the SSM would not be as rapid, consistent and effective as in banks in the Member States outside of the SSM. Therefore, a centralised resolution mechanism for all banks operating in the Member States participating in the SSM is essential to guarantee a level playing field.
27.	Rec. 10	(10) As long as supervision in a Member State remains outside the SSM, that Member State should remain responsible for the financial consequences of a bank failure. The single resolution mechanism should therefore only extend to banks and financial institutions established in Member States participating in the SSM and subject to the supervision of the ECB and the National Authorities within the framework of the SSM. Banks established in the Member States not participating in the SSM should not be subject to the single resolution mechanism. If such Member States became subject to the single resolution mechanism, this would create the wrong incentives for them. In particular, supervisors in these Member States may become more lenient towards banks in their jurisdictions as they would not have to bear the full financial risk of their failures. Therefore, in order to ensure parallelism with the SSM, the single resolution mechanism should apply to Member States participating in the SSM. As Member States join the SSM, they should also automatically become subject to the single resolution mechanism. Ultimately, the single resolution mechanism ***could potentially*** extend to the entire internal market.

27a	Rec. 10a (new)	**(10a)** ***In order to ensure a level playing field within the internal market as a whole,*** **this regulation is consistent with BRRD. It therefore adapts the BRRD principles to the specificities of the SRM and ensures that** ***appropriate funding*** **is available to the latter.** When the Board**,** the Commission and the Council exercise their powers under this Regulation, they should be subject to the **Delegated Acts, and Regulatory and Implementing Technical Standards,** Guidelines and Recommendations adopted by EBA on the basis of respectively Article 10 to 15 and Article 16 of the EBA Regulation within the scope of Directive [..].The Board, the Council and the Commission, in their respective capacities, should also **cooperate with** the EBA in accordance with **Articles 25 and** 30 of **the EBA** Regulation and respond to requests of collection of information addressed to them by the EBA in accordance with Article 35 of **the EBA** Regulation. It is recalled that, according to the last sentence of Recital (32) of the EBA Regulation, "*in cases where the relevant Union legislation confers discretion on […] competent authorities, decisions taken by the Authority cannot replace the exercise in compliance with Union law of that discretion*". The same principle should extend to this Regulation, while fully respecting the principles enshrined in primary EU law. In light of these key elements the EBA should be able to carry out its tasks effectively and to secure the equality of treatment between the Council**, the Commission**, the Board and the national authorities when performing similar tasks.
28.	Rec. 11	(11) A single bank resolution fund (hereinafter referred to as the 'Fund') is an essential element without which a single resolution mechanism could not work properly. ***If the funding of resolution were to remain national*** **in the longer term,** ***the link between sovereigns and the banking sector would not be*** **fully** ***broken, and investors would continue to establish borrowing conditions according to the place of establishment of the banks rather than to their creditworthiness.*** The Fund should help to ensure a uniform administrative practice in the financing of resolution and to avoid the creation of obstacles for the exercise of fundamental freedoms or the distortion of competition in the internal market due to divergent national practices. The Fund should be financed by bank **contributions raised at national level** and should be pooled at Union level **in accordance with the Agreement on the transfer and progressive mutualisation of those contributions,** thus increasing financial stability and limiting the link between the perceived fiscal position of individual Member States and the funding costs of banks and undertakings operating in those Member States. ***To further break that link, decisions*** **taken within** ***the SRM*** **should not impinge** ***on the fiscal responsibilities of the Member States.*** **In this regard, only extraordinary public financial support should be considered as an impingement on the budgetary sovereignty and fiscal responsibilities of the Member States. In particular, decisions that require the use of the Fund or of the DGS should not be considered as impinging on the budgetary sovereignty or fiscal responsibilities of the Member States.**

29.	Rec. 11a (new)	(11a) This Regulation as well as the Directive [ ] establishes the modalities for the use of the Fund and the general criteria to determine the fixing and calculation of ex ante and ex post contributions. Participating Member States remain competent to levy the contributions on the entities located in their respective territories according to the Directive [ ]and this Regulation. By means of an Agreement the participating Member States will assume the obligation to transfer **to the Fund** the contributions that they raise at national level in accordance with the BRRD and SRM Regulation**. During a transitional period, the contributions will be allocated to** different compartments corresponding to each participating Member State (national compartments). The said compartments will be subject to a progressive merger so that they will cease to exist at the end of the transitional period. The **Agreement** will lay down the conditions upon which the parties agree to transfer the contributions that they raise at national level to the Fund **and to progressively merge the compartments**. The entry into force of the **Agreement** will be necessary for the Fund starting to be fed by national compartments based on contributions raised by the parties.
30.		This Regulation defines the powers of the Board for using and managing the Fund. The **Agreement** will establish how the Board may dispose of the national compartments progressively **merged**.
31.	Rec. 12	(12) It is therefore necessary to adopt measures to create a single resolution mechanism for all Member States participating in the SSM in order to facilitate the proper and stable functioning of the internal market.
32.	Rec. 13	(13) A centralised application of the bank resolution rules set out in Directive [*BRRD*] by a single Union resolution authority in the participating Member States can only be ensured where the rules governing the establishment and functioning of a single resolution mechanism are directly applicable in the Member States to avoid divergent interpretations across the Member States. This should bring benefits to the internal market as a whole because it will contribute to ensuring fair competition and to preventing obstacles to the free exercise of fundamental freedoms not only in the participating Member States but in the whole internal market.

33.	Rec. 14	(14) Mirroring the scope of the Council Regulation (EU) No …/…, a single resolution mechanism should cover all credit institutions established in the participating Member States. However, within the framework of a single resolution mechanism, it should be possible to resolve directly any credit institution of a participating Member State in order to avoid asymmetries within the internal market in the treatment of failing institutions and creditors during a resolution process. To the extent that parent undertakings, investment firms and financial institutions are included in the consolidated supervision by the ECB, they should be included in the scope of the single resolution mechanism. Although the ECB will not supervise those institutions on a solo basis, it will be the only supervisor that will have a global perception of the risk to which a group, and indirectly the individual members, is exposed to. To exclude entities which form part of the consolidated supervision within the scope of the ECB from the scope of the single resolution mechanism would make it impossible to plan for the resolution of banking groups and to adopt a group resolution strategy, and would make any resolution decisions much less effective.
34.	Rec. 15	(15) Within the single resolution mechanism, decisions should be taken at the most appropriate level. **The same material rules should be applied by the Board and by the national resolution authorities when adopting decisions under this Regulation.**
35.	Rec. 15a (new)	[…]

36.	Rec. 15a (new)	(15a) Considering that only institutions of the Union may establish the resolution policy of the Union **and that a margin of discretion remains in the adoption of each specific resolution scheme**, it is necessary to provide for the adequate involvement of the Council and the Commission, as institutions which, according to Article 291 TFEU may exercise implementing powers . **The assessment of** the discretionary aspects of the resolution decisions taken by the Board should be exercised by the Commission. Considering the considerable impact of the resolution decisions on the financial stability of Member States and on the Union as such, as well as on the fiscal sovereignty of Member States, it is important that the Council is conferred the implementing power to take certain decisions relating to resolution . It should therefore be for the Council, on proposal from the Commission, to exercise effective control **on** the assessment by the Board of the existence of a public interest and to assess any material modification of the amount of the Fund to be used in a specific resolution action. Moreover, the Commission should be empowered to adopt delegated acts which will specify further criteria or conditions to be taken into account by the Board in the exercise of its different powers. Such conferral of resolution tasks should not in any way hamper the functioning of the internal market for financial services. The EBA should therefore maintain its role and retain its existing powers and tasks: it should develop and contribute to the consistent application of the Union legislation applicable to all Member States and enhance convergence of resolution practices across the Union as a whole. It is recalled that, according to the last sentence of Recital (32) of the EBA Regulation, "in cases where the relevant Union legislation confers discretion on […] competent authorities, decisions taken by the Authority cannot replace the exercise in compliance with Union law of that discretion". The same principle should extend to this Regulation, while fully respecting the principles enshrined in primary EU law. In light of these key elements the EBA should be able to carry out its tasks effectively and to secure the equality of treatment between the Council, **the Commission,** the Board and the national authorities when performing similar tasks.
36a	Rec. 15b (new)	**(15b) In order to ensure conformity with the principles established in Article 3(3) of the BRRD, EU institutions, when carrying out the tasks conferred on them by virtue of this Regulation, should ensure that appropriate organisational arrangements are in place.**
37.	Rec. 15b (new)	[…]

38.	Rec. 16	(16) The ECB, as the supervisor within the SSM, **and also the Board,** should be able to assess whether a credit institution is failing or likely to fail and whether there is no reasonable prospect that any alternative private sector or supervisory action would prevent its failure within a reasonable timeframe. The Board**, if it considers that all the criteria relating to the triggering of resolutions are met, should adopt the resolution scheme.** **The procedure related to the adoption of the** resolution scheme**, which involves both the Commission and the Council, strengthens the necessary operational independence of the Board while respecting the principle of delegation of powers to agencies as interpreted by the Court of Justice. Therefore, this Regulation provides that the resolution scheme adopted by the Board should enter into force only if, within a period of 24 hours after its adoption by the Board, there are no objections from the Council or the Commission, or if it is approved by the Commission. The grounds on which the Council may object, on proposal by the Commission, to the Board's resolution scheme are strictly limited to the existence of a public interest and to material modifications by the Commission of the amount of the use of the Fund as proposed by the Board. A modification in the amount of the Fund of 5% or more compared with the original proposal of the Board should be considered material. The Council should either approve or object to the Commission's proposal without amending it. As an observer to the meetings of the Board, the Commission should continuously verify that the resolution scheme adopted by the Board is fully compliant with this Regulation, that it ensures the appropriate balancing of the different objectives and interests at stake, that it respects the public interest and that the integrity of the internal market is preserved. Considering that the resolution action requires a very speedy decision making process, the Council and the Commission should closely cooperate and the Council should not duplicate the preparatory work already undertaken by the Commission. The Board should instruct the national resolution authorities which should take all necessary measures to implement the resolution scheme.**
38a.	Rec. 16a (new)	**(16a)** *The production of a group resolution scheme should facilitate coordinated resolution that is more likely to deliver the best result for all* **entities** *of a group. The* **Board or, where relevant, national** *resolution authorities should have the power to apply the bridge bank institution at group level (which may involve, where appropriate, burden sharing arrangements) to stabilise a group as a whole. Ownership of subsidiaries could be transferred to the bridge bank with a view to onward sale, either as a package or singly, when market conditions are appropriate. In addition,* **the Board or, where relevant,** *the* **national** *resolution authority, should have the power to apply the bail-in tool at parent level.*

39.	Rec. 17	(17) The Board should, **in particular,** be empowered to take decisions **in relation to significant entities or groups, entities or groups directly supervised by the ECB or cross-border groups.** National resolution authorities should assist the Board in resolution planning and in the preparation of resolution decisions. **For entities and groups which are not significant and not cross-border, the national resolution authorities should be responsible in particular for the resolution planning, the assessment of resolvability, the removal of impediments to resolvability, the measures that the resolution authorities are entitled to take during early intervention, and the resolution actions. Under certain circumstances they should carry out their tasks on the basis and in conformity with this Regulation while making use of the powers conferred on them by the national law transposing [BRRD] in accordance with the conditions set out in national law in so far as it is not in conflict with the substantial provisions of this Regulation;**
40.	Rec. 18	(18) It is instrumental for the good functioning of the internal market that the same rules apply to all resolution measures, regardless of whether they are taken by national resolution authorities under Directive [*BRRD*] or within the framework of the single resolution mechanism The Commission will assess those measures under Article 107 of the TFEU.
41.	Rec. 18a (new)	(18a) Where resolution action would involve the granting of State aid pursuant to Article 107(1) of the TFEU or as Single Resolution Fund aid resolution decision can be adopted after the Commission has adopted a positive or conditional decision concerning the compatibility of the use of such aid with the internal market. The decision of the Commission on Single Resolution Fund aid may impose conditions, commitments or undertakings in respect of the beneficiary entity. The conditions which may be imposed by the Commission may include, but are not limited to: burden-sharing requirements, including that losses are first absorbed by equity and requirements as to contributions by hybrid capital holders, subordinated debt holders and senior creditors, including in accordance with the requirements of Directive []; restrictions on the payment of dividends on shares or coupons on hybrid capital instruments, the repurchase of own shares or hybrid capital instruments, capital management transactions; restrictions on acquisitions of stakes in any undertaking either through an asset or share transfer; prohibitions on aggressive commercial practices or strategies or advertising support from public aid; requirements concerning market shares, pricing, product features and other behavioural requirements; requirements for restructuring plans; governance requirements; reporting and disclosure requirements, including as regards compliance with such conditions as may be specified by the Commission; requirements relating to the sale of the beneficiary entity or all or part of its assets, rights and liabilities; requirements relating to the liquidation of the beneficiary entity.

42.	Rec. 18b (new)	[…]
43.	Rec. 19	(19) In order to ensure a swift and effective decision making process in resolution, the Board should be a specific Union agency with a specific structure, corresponding to its specific tasks, and which departs from the model of all other agencies of the Union. Its composition should ensure that due account is taken of all relevant interests at stake in resolution procedures. The Board should operate in executive and plenary sessions. In its executive session, it should be composed of a **Chair**,-**four**-independent full-time members***, which shall act independently and objectively in the interest of the Union as a whole,*** **and the permanent observers appointed by** the Commission and the ECB. Considering the missions of the Board, ***the*** **Chair** and ***the*** **Vice-Chair** should be appointed ***on the basis of merit, skills, knowledge of banking and financial matters, and experience relevant to financial supervision, regulation*** **and bank resolution***. The Chair and the Vice-Chair should be chosen*** on the ***basis of an open selection procedure of which the European Parliament and the Council should be kept duly informed. The selection procedure should respect the principle of gender balance,*** **experience and qualification***. The Commission should provide the European Parliament's competent committee with the shortlist of candidates for the positions of Chair and Vice-Chair. The Commission*** should ***submit a proposal for the appointment of the Chair and the Vice-Chair to the European Parliament for approval. Following the European Parliament's approval of that proposal, the Council should adopt an implementing decision to appoint the Chair and the Vice-Chair***. When deliberating on the resolution of a bank or group established within a single participating Member State, the executive session of the Board should also convene and involve in the decision-making process the member appointed by the Member State concerned representing its national resolution authority. When deliberating on a cross-border group, the members appointed by the home and all host Member States concerned representing the relevant national resolution authorities should also be convened and involved in the decision-making process of the executive session of the Board.
44.	Rec. 19a (new)	***[…]***

44a.	Rec. 19-a (new)	**(19-a) When making decisions or taking actions in the exercise of the powers under this Regulation, due account should be given to the importance for the internal market of the exercise of the right of establishment conferred by the Treaty on the functioning of the European Union, and in particular, where possible, to the effects on the continuation of cross-border activities.** **(19-ab)** ***The Board, in its executive session, should prepare all decisions concerning resolution procedure*** **and,** ***to the fullest extent possible*****, adopt those decisions.** ***Because of the institution-specific nature of the information contained in the resolution plans, decisions concerning the drawing up, assessment, and approval of the resolution plans should be taken by the Board in its executive session.*** **Regarding the use of the Fund, it is important that there is no first-mover advantage and that the outflows of the Fund are monitored. In order to ensure a corresponding decision-making by the Board, when resolution action is required above the threshold of EUR 5 billion, any member of the plenary may, in accordance with a strict deadline, request the plenary session to decide. Where liquidity support involves no or significantly less risk than other forms of support (in particular in the case of short-term, non-repeated extension of credit to solvent institutions against adequate collateral of high quality), it is justified to have this form of support counted with a lower weight of only 0.5. Once the net accumulated use of the Fund in the last consecutive 12 months reaches the threshold of EUR 5 billion per year, the plenary should evaluate the application of the resolution tools, including the use of the Fund, and provide guidance which the executive session should follow in subsequent resolution decisions. Guidance to the executive should in particular focus on ensuring non-discriminatory application of resolutions tools, on avoiding a depletion of the fund and on differentiating appropriately between no/low risk liquidity and other forms of support.**
45.	Rec. 19a (new)	***(19a) Since the participants on the decision-making process of the Board in its executive sessions would change depending on the Member State(s) where the relevant institution or group operates, the permanent participants should ensure that the decisions throughout the different formations of the executive sessions of the Board are coherent, appropriate and proportionate.***

46.	Rec. 19b (new)	***(19b)*** **The Board should be able to invite observers to its meetings. The conferral of resolution tasks on the Board should be consistent with the framework of the ESFS and its underlying objective to develop the single rulebook and enhance convergence of supervisory and resolution practices across the whole Union. In particular, EBA should assess and coordinate initiatives, in accordance with Regulation** **(EU) No 1093/2010, on resolution plans with a view to promoting convergence in that area. Therefore, as a general rule, the Board should always invite the EBA when matters for which, according to the BRRD, the EBA has to develop technical standards or to establish guidelines are discussed.** ***Other observers, such as a representative of the European Stability Mechanism (ESM), may,*** **where** ***appropriate, also be invited to attend the meetings of the Board.*** **(19ba)** ***The observers should be subject to the same professional secrecy requirements as the members and the staff of the Board and staff exchanged with or seconded by participating Member States carrying out resolution duties.***
47.	Rec. 19c (new)	***(19c) The Board should be able to establish internal resolution teams composed of its own staff and staff of the national resolution authorities,*** **including, where appropriate, observers from non-*participating Member States, that should be headed by Coordinators appointed from the Board's senior staff, who might be invited as observers to participate in the executive sessions of the Board.***
48.	Rec. 19d (new)	***[…]***
48a		**(19e)** The Board and the resolution authorities and competent authorities of the **non-participating** Member States should conclude memoranda of understanding describing in general terms how they will cooperate with one another in the performance of their tasks under [BBRD]. The memoranda of understanding could, inter alia, clarify the consultation relating to decisions of the Board having effect on subsidiaries or branches established in the non-participating Member States whose parent undertaking is established in a participating Member State. The memoranda should be reviewed on a regular basis.

48 b		**(19f)** ***The Board*** **should** ***act independently,*** ***it*** **should** ***have the capacity to deal with large banking groups,*** ***to act swiftly and impartially*** ***it*** **should** ***ensure that appropriate account is taken of national financial stability, financial stability of the Union and the internal market,*** ***and it*** **should** ***be accountable to the European Parliament and the Council. Members of the Board*** **should** ***have the necessary expertise on bank restructuring and insolvency.***
49.	Rec. 20	(20) In the light of the Board's missions and the resolution objectives which include the protection of public funds, the functioning of the **SRM** should be financed from contributions paid by the institutions in the participating Member States.
50.	Rec. 20a (new)	[…]
51.	Rec. 21	(21) The Board and the Commission, the Council, where relevant, should replace the national resolution authorities designated under Directive [ ] in respect of all aspects related to the resolution decision-making process. The national resolution authorities designated under Directive [ ] should continue to carry out activities related to the implementation of resolution schemes adopted by the Board. In order to ensure transparency and democratic control, as well as to safeguard the rights of the Union institutions, the Board should be accountable to the European Parliament and to the Council for any decisions taken on the basis of this proposal. For the same reasons of transparency and democratic control, national parliaments should have certain rights to obtain information about the activities of the Board and to engage in a dialogue with it.
52.	Rec. 21a (new)	[...]
53.	Rec. 21b (new)	**(21a)** The national parliament of a participating Member State , **or the competent committee thereof,** should be able to invite the **Chair** to participate in an exchange of views in relation to the resolution of institutions in that Member State together with a representative of the national resolution authority. This role for national parliaments is appropriate given the potential impact that resolution measures may have on public finances, institutions, their customers and employees, and the markets in the participating Member States. The **Chair** and the national resolution authorities should respond positively to such invitations to exchange views with the national parliaments.
54.	Rec. 22	[…]

55.	Rec. 23	(23) To ensure a uniform approach for institutions and groups the Board should be empowered to draw up resolution plans for such institutions and groups **after consultation** ***with the national*** **competent and** ***resolution authorities***. *It shall be the general rule that the group resolution plans are prepared for the group as a whole and identify measures in relation to a parent* **undertaking** *as well as all individual subsidiaries that are part of a group. The* **group** *resolution plans should take into account the financial, technical and business structure of the relevant group. If individual resolution plans for* **entities** *that are a part of a group are prepared,* **the Board, or, where** *relevant***, national resolution** *authorities should aim to achieve, to the extent possible, consistency with resolution plans for the rest of the group. The* **Board or, where relevant, national** *resolution authorities should transmit the resolution plans and any changes thereto to the* **competent authority**, *in order to permanently keep* **it** *fully informed.* The Board should assess the resolvability of institutions and groups, and take measures aimed at removing impediments to resolvability, if any. The Board should require national resolution authorities to apply such appropriate measures designed to remove impediments to resolvability in order to ensure consistency and the resolvability of the institutions concerned. *Given the sensitivity of the information contained in them, resolution plans should be subject to the confidentiality provisions as set out within this* **Regulation**.
55a	Rec. 23a	**(23a) W***hen applying resolutions tools and exercising resolution powers, the principle of proportionality and the particularities of the legal form of an institution should be taken into account.*
56.	Rec. 24	(24) Resolution planning is an essential component of effective resolution. The Board should therefore have the power to require changes to the structure and organization of institutions or groups in order to remove practical impediments to the application of resolution tools and ensure the resolvability of the entities concerned. Due to the potentially systemic nature of all institutions, it is crucial in order to maintain financial stability that authorities have the possibility to resolve any institution. In order to respect the right to conduct business laid down by Article 16 of the Charter of Fundamental Rights, the Board's discretion should be limited to what is necessary to simplify the structure and operations of the institution solely to improve its resolvability. In addition, any measure imposed for such purposes should be consistent with Union law. Measures should neither directly nor indirectly be discriminatory on ground of nationality, and should be justified by the overriding reason of the public interest in financial stability. To determine whether an action was taken in the general public interest, the Board, acting in the general public interest, should be able to achieve the resolution objectives without encountering impediments to the application of resolution tools or its ability to exercise the powers conferred on it. Furthermore, an action should not go beyond the minimum necessary to attain the objectives.

56a.	Rec. 24a (new)	**(24a) Due to the potential systemic nature of all institutions, it is crucial that the Board, where appropriate in cooperation with the national resolution authorities, have the possibility to resolve any institution. To this end, the Board, where appropriate in cooperation with the national resolution authorities, may adopt resolution plans, assess the resolvability of any institution and group and, where necessary, take measures to address or remove impediments to the resolvability of any institution of the participating Member States. Systemically important institutions, including those pursuant to Article 131 of Directive 2013/36/EU, if they fail, could pose a considerable risk to the functioning of the financial markets and could have a negative impact on financial stability. The Board, without prejudice to its obligation to plan for the resolution and assess the resolvability of all the institutions subject to its powers, and to its independence, should take due care, as a matter of priority, of establishing the resolution plans as well as assessing the resolvability and taking all necessary action to address or remove all the impediments to the resolvability of those systemically important institutions.**
57.	Rec. 24b (new)	**(24b)** *Resolution plans should include procedures for informing and consulting with employee representatives throughout the resolution processes where appropriate. Where applicable, collective agreements, or other arrangements provided for by social partners, as well as national and Union law on the involvement of trade unions and workers' representatives in company restructuring processes, should be complied with in this regard.*
57a.	Rec. 24c	**(24c) In relation to the obligation of drafting resolution plans, the Board, or, where relevant,** *national* **resolution** *authorities should take into account the nature of the business, shareholding structure, legal form, risk profile size and legal status and interconnectedness to other institutions or to the financial system in general of an* **entity***, the scope and the complexity of its activities, its membership of an institutional protection scheme or other cooperative mutual solidarity systems and whether it exercises any investment services or activities and whether its failure and subsequent winding up under normal insolvency proceedings would be likely to have a significant negative effect on financial markets, on other institutions, on funding conditions, or on the wider economy in the context of resolution plans and when using the different powers and tools at their disposal, making sure that the regime is applied in an appropriate and proportionate way and that administrative burden related to resolution plan preparation obligations is minimised. Whereas the contents and information specified in Annexes A)* **of Directive [BRRD]** *define a minimum standard for* **entities** *with evident systemic relevance,* **it is** *permitted to apply different or significantly reduced resolution planning and information requirements on an institution specific basis, and at a lower frequency for updates than one year. For a small* **entity** *of little interconnectedness and complexity, the resolution plan* **could be** *reduced.* *Further, the regime should be applied so that the stability of financial markets is not jeopardised. In particular, in situations characterised by broader problems or even doubts about the resilience of many* **entities***, it is essential* **to** *consider the risk of contagion from the actions taken in relation to any* **entity***.*

57 b.	Rec. 24d	**(24d)** Where Directive [*BRRD*] provides for the possibility of applying simplified obligations or waivers by the national resolution authorities in relation to the requirement of drafting resolution plans, a procedure should be provided for whereby the Board **or, where relevant, national resolution authorities** could authorise the application of such simplified obligations.
57c.	Rec. 24e	**(24e)** *In line with the capital structure of* **entities** *affiliated to a central body, for the purposes of this* **Regulation**, *these* **entities** *are not obliged to each draw up separate resolution plans solely on the grounds that the central body to which they are affiliated is under the direct supervision by the European Central Bank.* *In the case of group resolution plans, the potential impact of the resolution measures in all the Member States where the group operates should be specifically taken into account in the drawing up of the plans.*
58.	Rec. 25	(25) The single resolution mechanism should be ***based*** on the frameworks of Directive [*BRRD*] and the SSM. Therefore, the Board should be empowered to intervene at an early stage where the financial situation or the solvency of an **entity** is deteriorating. The information that the Board receives from the national resolution authorities or the ECB at this stage is instrumental in making a determination on the action it might take in order to prepare for the resolution of the **entity** concerned.
59.	Rec. 26	(26) In order to ensure rapid resolution action when it becomes necessary, the Board should closely monitor, in cooperation with the **ECB or the** relevant competent authority, the situation of the **entities** concerned and the compliance of those **entities** with any early intervention measure taken in their respect. *In determining whether a private sector action could prevent within a reasonable timeframe the failure of an* ***entity****, the appropriate authority should take into account the effectiveness of early intervention measures undertaken within the timeframe predetermined by the competent authority.*
60.	Rec. 26a (new)	(26a) The Board and the national resolution and competent authorities**, including the ECB,** should**, where necessary,** conclude a memorandum of understanding describing in general terms how they will cooperate with one another in the performance of their respective tasks under Union law. The memorandum should be reviewed on a regular basis.
61.	Rec. 26b (new)	(26b) When making decisions or taking actions, in particular regarding entities established in both participating and non-participating Member States, possible adverse effects on those Member States, such as threats to financial stability of their financial markets and **on the** entities established in these Member States, should also be considered.
62.	Rec. 26c (new)	***[…]***

63.	Rec. 27	(27) In order to minimise disruption *of* the financial market and *of* the economy, the resolution process should be accomplished in a short time. ***Depositors should be granted access at least to the guaranteed deposits as promptly as possible, and in any event*** **within the same deadlines as provided for** ***in Directive [DGSD].*** The Commission should, throughout the resolution procedure, have access to any information which it deems necessary to take an informed decision in the resolution process.
63a.		**(27a)** *The* **decision to place an entity under** *resolution should* **be taken** *before a financial* **entity** *is balance sheet insolvent and before all equity has been fully wiped out. Resolution should be initiated* **after the determination** *that an* **entity** *is failing or likely to fail and* **no** *alternative* **private sector** *measures would prevent such failure within a reasonable timeframe. The fact that an* ***entity*** *does not meet the requirements for authorisation should not justify per se the entry into resolution, especially if the* **entity** *is still or likely to still be viable. An* **entity** *should be considered as failing or likely to fail when it is or is likely in the near future to be in breach of the requirements for continuing authorisation, when the assets of the* **entity** *are or are likely in the near future to be less than its liabilities, when the* **entity** *is or is likely in the near future to be unable to pay its debts as they fall due, or when the* **entity** *requires extraordinary public financial support except in the particular circumstances set out in this* **Regulation**. *The need for emergency liquidity assistance from a central bank should not in itself be a condition that sufficiently demonstrates that an* **entity** *is or will be, in the near future, unable to pay its liabilities as they fall due. If this facility were guaranteed by a State, an* **entity** *accessing such a facility would be subject to the State aid rules. In order to preserve financial stability, in particular in case of a systemic liquidity shortage, State guarantees of liquidity facilities provided by central banks or State guarantees of newly issued liabilities to remedy a serious disturbance in the economy of a Member State should not trigger the resolution framework provided that a number of conditions are met. In particular the State guarantee measures should be approved under the State aid framework and should not be part of a larger aid package, and the use of the guarantee measures should be strictly limited in time. Member States guarantees for equity claims should be prohibited. When providing a guarantee, a Member State should ensure that the guarantee is sufficiently remunerated by the* **entity**. *Furthermore, the provision of extraordinary public financial support should not trigger resolution where, as a precautionary measure, a Member State takes an equity stake in an* **entity**, *including an* **entity** *which is publicly owned, which complies with its capital requirements. This may be the case, for example, where an* **entity** *is required to raise new capitaldue to the outcome of a scenario-based stress test or of the equivalent exercise conducted by macro prudential authorities which includes a requirement that is set to maintain financial stability in the context of a systemic crisis, but the* **entity** *is unable to raise capital privately in markets. An* **entity** *shall not be considered to be failing or likely to fail solely on the basis that extraordinary public financial support was provided before the entry into force of this* **Regulation**. *Finally, access to liquidity facilities including emergency liquidity assistance by central banks may constitute state aid pursuant to state aid framework.~~]~~*

64.	Rec. 28	(28) Liquidation of a failing **entity** under normal insolvency proceedings could jeopardise financial stability, interrupt the provision of essential services, and affect the protection of depositors. In such a case there is a public interest in applying resolution tools. The objectives of resolution should therefore be to ensure the continuity of essential financial services, to maintain the stability of the financial system, to reduce moral hazard by minimising reliance on public financial support to failing **entities**, and to protect depositors.
65.	Rec. 29	(29) However, the winding up of an insolvent **entity** through normal insolvency proceedings should always be considered before a decision could be taken to maintain the **entity** as a going concern. An insolvent **entity** should be maintained as a going concern for financial stability purposes and with the use, to the extent possible, of private funds. That may be achieved either through sale to or merger with a private sector purchaser, or after having written down the liabilities of the **entity**, or after having converted its debt to equity in order to do a recapitalisation.
66.	Rec. 30	(30) When taking or preparing decisions relating to resolution powers, the Commission, the Council and the Board should make sure that *resolution action is taken in accordance with principles including that shareholders and creditors bear an appropriate share of the losses, that the management should in principle be replaced, that the costs of the resolution of the* **entity** *are minimised, and that creditors of the same class are treated in an equitable manner. In particular, where creditors within the same class are treated differently in the context of resolution action, such distinctions must be justified in the public interest and should be neither directly nor indirectly discriminatory on the grounds of nationality.*
67.	Rec. 31	(31) The limitations on the rights of shareholders and creditors should comply with Article 52 of the Charter of Fundamental Rights. The resolution tools should therefore be applied only to those **entities** that are failing or likely to fail, and only when it is necessary to pursue the objective of financial stability in the general interest. In particular, resolution tools should be applied where the **entity** cannot be wound up under normal insolvency proceedings without destabilizing the financial system and the measures are necessary in order to ensure the rapid transfer and continuation of systemically important functions and where there is no reasonable prospect for any alternative private solution, including any increase of capital by the existing shareholders or by any third party**,** sufficient to restore the full viability of the **entity**.
68.	Rec. 32	(32) Interference with property rights should not be disproportionate. As a consequence, affected shareholders and creditors should not incur greater losses than those which they would have incurred had the **entity** been wound up at the time that the resolution decision is taken. In the event of partial transfer of assets of an **entity** under resolution to a private purchaser or to a bridge *bank*, the residual part of the **entity** under resolution should be wound up under normal insolvency proceedings. In order to protect shareholders and creditors of the **entity** during the winding up proceedings, they should be entitled to receive in payment of their claims not less than what it is estimated they would have recovered if the whole **entity** had been wound up under normal insolvency proceedings.

69.	Rec. 33	(33) *For the purpose of protecting* the right of shareholders and *creditors,* clear obligations should be laid down concerning the valuation of the assets and liabilities of the **entity** *under resolution* and *where required under* **this Regulation**, *the valuation of the treatment that shareholders and creditors* would have received if the **entity** had been wound up under normal insolvency proceedings. *It should be possible to commence* a valuation already in the early intervention phase. Before any resolution action is taken, *a fair and realistic valuation of the assets and liabilities of the* **entity** *should be carried out. Such valuation should be subject to judicial review only together with the resolution decision. In addition, where required under* **this Regulation**, *an ex post comparison between the treatment that shareholders and creditors have actually been afforded and the treatment they would have received under normal insolvency proceedings should be carried out after resolution tools have been applied. If it is determined that shareholders and creditors have received, in payment of their claims, less than the amount that they would have received under normal insolvency proceedings, they should be entitled to the payment of the difference where required under* **this Regulation. That difference, if any, should be paid by the Fund established in accordance with this Regulation**.
70.	Rec. 34	(34) It is important that losses be recognised upon failure of the **entity**. *The valuation of assets and liabilities of failing* **entities** *should be based on fair, prudent and realistic assumptions at the moment when the resolution tools are applied. The value of liabilities should not however be affected in the valuation by the* **entity**'s *financial state. It should be possible, for reasons of urgency, that* **the Board** *make***s** *a rapid valuation of the assets or the liabilities of a failing* **entity**. *That valuation should be provisional and should apply until an independent valuation is carried out.*
71.	Rec. 35	(35) So as to ensure that the resolution process remains objective and certain, it is necessary to lay down the order in which unsecured claims of creditors against an institution put under resolution should be written down or converted. In order to limit the risk of creditors incurring greater losses than if the institution had been wound up under normal insolvency proceedings, the order to be laid down should be applicable both in normal insolvency proceedings and in the write down or conversion process under resolution. This would also facilitate the pricing of debt.
72.	Rec. 35a (new)	***(35a)*** **The Commission should review the application of this Regulation in order to assess its impact on the internal market and to establish if any modifications or further developments are needed in order to improve the efficiency and the effectiveness of the SRM, in particular whether the Banking Union needs to be completed with the harmonisation at Union level of insolvency proceedings for failed institutions.**

73.	Rec. 36	(36) The Board should decide on the detailed resolution scheme. The relevant resolution tools should include the sale of business tool, the bridge institution tool, the bail-in tool and the asset separation tool, which are also provided for by Directive [ ]. The scheme should also make it possible to assess whether the conditions for the write-down and conversion of capital instruments are met.
73a.	Rec. 36a (new)	**(36a)** *When taking resolution actions,* **the Board** *should take into account and follow the measures foreseen in the resolution plans unless* **the Board** *assess***es***, taking into account circumstances of the case, that resolution objectives will be achieved more effectively by taking actions which are not foreseen in the resolution plans*
73b.	Rec. 36b (new)	**(36b)** *The resolution tools should include the sale of the business or shares of the* **entity** *under resolution, the setting up of a bridge* **entity***, the separation of the performing assets from the impaired or under-performing assets of the failing* **entity***, and the bail in of the shareholders and creditors of the failing* **entity***.*
73c.	Rec. 36c (new)	**(36c)** *Where the resolution tools have been used to transfer the systemically important services or viable business of an* **entity** *to a sound entity such as a private sector purchaser or bridge* **entity***, the residual part of the* **entity** *should be liquidated.*
74.	Rec. 37	(37) The sale of business tool should enable **the** sale of the **entity** or parts of its business to one or more purchasers without the consent of shareholders.
74a.	Rec. 37a (new)	**(37a)** *Any net proceeds from the transfer of assets or liabilities of the* **entity** *under resolution when applying the sale of business tool should benefit the* **entity** *left in the winding up proceedings. Any net proceeds from the transfer of shares or other instruments of ownership issued by the* **entity** *under resolution when applying the sale of business tool should benefit the owners of those shares or other instruments of ownership in the* **entity** *left in the winding up proceedings. Proceeds should be calculated net of the costs arisen from the failure of the* **entity** *and from the resolution process.*
75.	Rec. 38	(38) The asset separation tool should enable authorities to transfer *assets, rights or liabilities of an* **entity** *under resolution* to a separate vehicle. That tool should be used only in conjunction with other tools to prevent an undue competitive advantage for the failing **entity**.

76.	Rec. 39	(39) An effective resolution regime should minimise the costs of the resolution of a failing **entity** borne by the taxpayers. It should also ensure that *systemic* **entities** *can be resolved without jeopardising financial stability. The bail-in tool achieves that objective by ensuring that shareholders and creditors of the failing* **entity** *suffer appropriate losses and bear an appropriate part of those costs arising from the failure of the* **entity**. *This will give shareholders and creditors of* **entities** *a stronger incentive to monitor the health of an* **entity** *during normal circumstances. This meets the Financial Stability Board recommendation that statutory debt-write down and conversion powers should be included in a* **legal** *framework for resolution, as an additional option in conjunction with other resolution tools.*
77.	Rec. 40	(40) *In order to ensure the necessary flexibility to allocate losses to creditors in a range of circumstances, it is appropriate that* the bail-in tool be applicable *both where the objective is to resolve the failing* **entity** *as a going concern if there is a realistic prospect that the* **entity** *viability may be restored, and where systemically important services are transferred to a bridge* **entity** *and the residual part of the* **entity** *ceases to operate and is wound down.*
78.	Rec. 41	(41) Where the bail-in tool is applied with the objective of restoring the capital of the failing **entity** to enable it to continue to operate as a going concern, the resolution through bail-in should be accompanied by replacement of management*, except where retention of management is appropriate and necessary for the achievement of the resolution objectives,* and a subsequent restructuring of the **entity** and its activities in a way that addresses the reasons for its failure. That restructuring should be achieved through the implementation of a business reorganisation plan. *Where applicable, such plans should be compatible with the restructuring plan that the* **entity** *is required to submit to the Commission under the Union State aid framework. In particular, in addition to measures aiming at restoring the long term viability of the* **entity**, *the plan should include measures limiting the aid to the minimum burden sharing, and measures limiting distortions of competition.*
79.	Rec. 42	(42) It is not appropriate to apply the bail-in tool to claims in so far as they are secured, collateralised or otherwise guaranteed. However, in order to ensure that the bail-in tool is effective and achieves its objectives, *it is desirable that it can be applied* to as wide a range of the unsecured liabilities of a failing **entity** as possible. Nevertheless, it is appropriate to exclude certain kinds of unsecured liability from the scope of application of the bail-in tool. *In order to protect holders of covered deposits,* the bail-in tool should not apply to those deposits that are protected under [DGSD]. *In order to ensure continuity of critical functions, the bail-in tool should not apply to certain* liabilities to employees of the failing **entity** or to commercial claims that relate to goods and services *critical* for the daily functioning of the **entity**. *In order to honour pension entitlements and pension amounts owed or owing to pension trusts and pension trustees, the bail-in tool should not apply to the failing* **entity***'s liabilities to a pension scheme, except for liabilities for pension benefits attributable to variable remuneration which do not arise from collective bargaining agreements. To reduce risk to systemic contagion, the bail-in tool should not apply to liabilities arising from a participation in*

		payment systems which have a remaining maturity of less than seven days, or liabilities to **entities**, *excluding entities that are part of the same group, with an original maturity of less than seven days.*
79a.		**(42a)** **It should be possible** *to exclude or partially exclude liabilities in a number of circumstances including where it is not possible to bail in such liabilities within a reasonable timeframe, the exclusion is strictly necessary and is proportionate to achieve the continuity of critical functions and core business lines or the application of the bail-in tool to liabilities would cause a destruction in value such that losses borne by other creditors would be higher than if these liabilities were not excluded from bail-in.* **It should also be possible** *to exclude or partially exclude liabilities when this is necessary to avoid the spreading of contagion and financial instability which may cause serious disturbance to the economy of a Member State. When carrying out these assessments,* **the Board or, where relevant, national** *resolution authorities should consider consequences of a potential bail-in of liabilities stemming from eligible deposits held by natural persons and micro, small and medium enterprises above the limit which is guaranteed by Directive* **[DGSD]**. *Where these exclusions are applied, the level of write down or conversion of other eligible liabilities may be increased to take account of such exclusions subject to the "no creditor worse off than under insolvency" principle being respected. Where the losses cannot be passed to other creditors, the* **Fund** *may make a contribution to the* **entity** *under resolution subject to a number of strict conditions including the requirement that losses totalling not less than 8% of total liabilities including own funds have already been bailed in, and the funding provided by the resolution fund is limited to the lower of 5% of total liabilities including own funds or the means available to the* **Fund** *and the amount that can be raised through ex post contributions within a period of three years.* **(42b)** *In extraordinary circumstances, where liabilities have been excluded and the* **Fund** *has been used to contribute to bail-in in lieu of these liabilities up to the permissible cap, the* **Board** *may seek funding from alternative financing* **sources**. **(42c)** *The minimum amount of bail-in of 8% of total liabilities, referred to in* **Article 24(7)[(a)]** *should be calculated based on the valuation under* **Article 17**. *Historical losses which have already been absorbed by shareholders through a reduction in own funds prior to the* **Article 17** *valuation should not be included in those percentages.*

80.	Rec. 43	(43) As the protection of covered depositors is one of the most important objectives of resolution, covered deposits *should not be subject to the exercise of the bail-in tool.* The deposit guarantee scheme, however, contributes to funding the resolution process *by absorbing losses to* the extent *of the net losses that it would have had to suffer after compensating depositors in normal insolvency proceedings.* The exercise of the bail-in powers would ensure that depositors continue having access to their deposits which is the main reason why the deposit guarantee schemes have been established. *Not foreseeing the* involvement of those schemes in such cases would constitute an unfair advantage with respect *to the rest* of creditors which would be subject to the exercise of the powers by the resolution authority.
80a.	Rec. 43a (new)	**(43a)** *Where deposits are transferred to another* **entity** *in the context of the resolution of* **an entity**, *depositors should not be insured beyond the level of coverage provided in Directive* **[DGSD]**. *Therefore claims with regard to deposits remaining in the* **entity** *under resolution should be limited to the difference between the funds transferred and the coverage level provided for by Directive* **[DGSD]**. *Where transferred deposits are superior to the coverage level, the depositor should have no claim against the deposit guarantee scheme with regard to deposits remaining in the* **entity** *under resolution.*
81.	Rec. 44	[…]
82.	Rec. 45	(45) To avoid **entities** structuring their liabilities in a manner that impedes the effectiveness of the bail in tool *it is appropriate* to establish that the **entities** *should meet at all times minimum requirement of own funds and eligible* liabilities **which may be** subject to the bail in tool**,** expressed as a percentage of the total liabilities of the **entity**, that do not qualify as own funds for the purposes of *Directive 2013/36 of the European Parliament and Council and of Regulation 575/2013 of the European Parliament and Council.* **(45a) A** *"top down" approach* **should be adopted when determining** *the minimum requirement for own funds and eligible liabilities within a group. The approach recognises that resolution action is applied at the level of the individual legal entity, and that it is imperative that loss absorbing capacity is located in, or is accessible to, the entity within the group where losses occur. To this end,* **it should be ensured** *that loss absorbing capacity within a group is distributed across the group in accordance with the level of risk in its constituent legal entities. The minimum requirement necessary for each individual subsidiary must be separately assessed. Furthermore,* **it should be ensured** *that all capital and liabilities which are counted towards the consolidated minimum requirement are located in entities where losses are* **likely** *to occur, or are otherwise available to absorb losses.*

		The present **Regulation** *should allow for a multiple-point-of-entry or a single-point-of-entry resolution. The requirement for the MREL should reflect the resolution strategy which is appropriate to a group as defined in the resolution plan. In particular, the MREL should be required at the appropriate level in the group in order to reflect a multiple-point-of-entry approach or single-point-of-entry-approach, contained in the resolution plan while keeping in mind that there could be circumstances where an approach different from that contained in the plan will be used as it would allow reaching the resolution objectives more efficiently. Against this background, regardless of whether a group has chosen the single-point- of-entry or the multiple-point-of entry approach, all entities of the group should have at any time a robust MREL so as to avoid contagion risk and the risk of a bank run.*
83.	Rec. 46	(46) The best method of resolution should be chosen depending on the circumstances of the case and for this purpose, all the resolution tools provided for by Directive [ ] should be available. When deciding on the resolution scheme, the Commission, the Council and the Board should, as far as possible, respectively opt for the scheme that is the least costly for the Fund referred to in Article 64.
84.	Rec. 47	(47) Directive [ ] has conferred the power to write down and convert capital instruments on national resolution authorities, since the conditions for the write-down and conversion of capital instruments may coincide with the conditions for resolution and in such a case, an assessment is to be made of whether the sole write-down and conversion of the capital instruments is sufficient to restore the financial soundness of the entity concerned or it is also necessary to take resolution action. As a rule, it will be used in the context of resolution. The Board, under the control of the Commission **or, where relevant of the Council,** should replace national resolution authorities also in this function and should therefore be empowered to assess whether the conditions for the write-down and conversion of capital instruments are met and to decide whether to place an entity under resolution, if the requirements for resolution are also fulfilled.
85.	Rec. 48	(48) The efficiency and uniformity of resolution action should be ensured in all the participating Member States. For this purpose, where a national resolution authority has **not applied or has not complied with a decision by the Board by virtue of this Regulation or has applied it in a way which poses a threat to any of the resolution objectives or to the efficient implementation of the resolution scheme, the Board should be empowered to** transfer to another person specified rights, assets or liabilities of an **entity** under resolution or to require the conversion of debt instruments which contain a contractual term for conversion in certain circumstances **or adopt any necessary action which significantly addresses the threat to the relevant resolution objective**. Any action by national resolution authorities that would restrain or affect the exercise of powers or functions of the Board should be excluded.

85a	Rec. 48a (new)	**(48a) The relevant entities, bodies and authorities involved in the application of this Regulation should cooperate with each other in accordance with the duty of sincere cooperation enshrined in the treaties.**
86.	Rec. 49	(49) In order to enhance the effectiveness of the single resolution mechanism, the Board should closely cooperate with the European Banking Authority in all circumstances. Where appropriate the Board should also cooperate with the European Securities and Markets Authority, the European Insurance and Occupational Pensions Authority and the European Systemic Risk Board, and the other authorities which form part of the European System of Financial Supervision. Moreover, the Board should closely cooperate with the ECB and the other authorities empowered to supervise **entities** within the SSM, in particular for groups subject to the consolidated supervision by the ECB. To effectively manage the resolution process of failing banks, the Board should cooperate with the national resolution authorities at all stages of the resolution process. Thus, cooperation with the latter is necessary not only for the implementation of resolution decisions taken by the Board, but also prior to the adoption of any resolution decision, at the stage of resolution planning or during the phase of early intervention. The Board should have the possibility to cooperate with relevant resolution authorities, as well as the ESFS and facilities financing direct or indirect public financial assistance.
87.	Rec. 49a (new)	***(49a) When applying resolution tools and exercising resolution powers, the Board should* instruct national resolution authorities to *ensure that the representatives of the employees of the entities concerned are informed and, where appropriate, are consulted, as provided for in Directive [BRRD].***
88.	Rec. 50	(50) Since the Board replaces national resolution authorities of the participating Member States in their resolution decisions, the Board should also replace those authorities for the purposes of the cooperation with non-participating Member States, **including in the resolution colleges referred to in Directive [BRRD]** as far as the resolution functions are concerned.
89.	Rec. 50a (new)	[…]
90.	Rec. 51	(51) As many institutions operate not only within the Union, but internationally, an effective resolution mechanism needs to set out principles of cooperation with the relevant third country authorities. Support to third country authorities should be provided in accordance with the legal framework provided by Article 88 of Directive [*BRRD*]. **In order to ensure a coherent aproach vis-à-vis third countries, it should be avoided, as far as possible, that in the participating Member States divergent decisions are taken with respect to the recognition of resolution proceedings conducted in third countries in relation to institutions or parent undertakings which have subsidiaries or other assets, rights or liabilities located in the participating Member States. The Board should therefore be enabled to issue recommendations in this regard**.

91.	Rec. 52	(52) In order to carry out its tasks effectively, the Board should have appropriate investigatory powers. It should be able to require all necessary information either through national resolution authorities, **or directly, after informing them,** and to conduct investigations and on-site inspections, where appropriate in cooperation with national competent authorities***, making full use of all information available to the ECB and the national competent authorities***. In the context of resolution, on-site inspections would be available for the Board to effectively monitor implementation by national authorities and to ensure that decisions **are taken** on the basis of fully accurate information.
92.	Rec. 53	(53) So as to ensure that the Board has access to all relevant information, the ***relevant entities and their*** employees or third parties to whom the entities concerned have outsourced functions or activities should not be able to invoke professional secrecy rules to prevent the disclosure of information to the Board. ***At the same time, the disclosure of such information to the Board should*** **not be deemed to** ***a breach of professional secrecy.***
93.	Rec. 54	(54) In order to ensure that decisions adopted within the framework of the single resolution mechanism are respected, proportionate and dissuasive **fines** should be imposed in case of infringement. The Board should be entitled to impose fines or periodic penalty payments on undertakings for failure to comply with its decisions **addressed to them**.
94.	Rec. 55	(55) Where a national resolution authority infringes the rules of the single resolution mechanism by not using the powers conferred on it under national law to implement an instruction by the Board, the Member State concerned may be liable to make good any damage caused to individuals, including where applicable to the entity or group under resolution, or any creditor of any part of that entity or group in any Member State, in accordance with **the relevant** case law.
95.	Rec. 56	(56) In order to guarantee its full autonomy and independence, the Board should have an autonomous budget with revenues from obligatory contributions from the institutions in the participating Member States. Appropriate rules should be laid down governing the budget of the Board, the preparation of the budget, the adoption of internal rules specifying the procedure for the establishment and implementation of the budget, and the internal and external audit of the accounts.
96.	Rec. 56a (new)	[…]
97.	Rec. 56a (new)	(56a) This Regulation should be without prejudice to the possibility of the Member States to levy fees to cover the administrative expenses of their national resolution authorities.

98.	Rec. 56b (new)	(56b) Participating Member States have jointly agreed to ensure that non-participating Member States **are to** be reimbursed promptly and with interest for the amount that State has paid in own resources in respect of any application of the Union budget for the purposes of meeting non-contractual liabilities and costs related thereto in relation to the performance of tasks under this Regulation. Participating Member States **have concluded** an agreement for the implementation of this commitment.
99.	Rec. 57	(57) There are circumstances when the effectiveness of the resolution tools applied may depend on the availability of short-term funding for the **entity** or a bridge **entity**, the provision of guarantees to potential purchasers, or the provision of capital to the bridge **entity**. *Notwithstanding the role of central banks in providing liquidity to the financial system even in times of stress, i*t is therefore important to set up a fund to avoid that public funds are used for such purposes. *It should be the financial industry, as a whole, that finances the stabilisation of the financial system.*
100.	Rec. 58	(58) It is necessary to ensure that the Fund is fully available for the purpose of the resolution of failing **entities**. Therefore, the Fund should not be used for any other purpose than the efficient implementation of resolution tools and powers. Furthermore, it should be used only in accordance with the applicable resolution objectives and principles. Accordingly, the Board should ensure that any losses, costs or other expenses incurred in connection with the use of the resolution tools are first borne by the shareholders and the creditors of the **entity** under resolution. It is only if the resources from shareholders and creditors are exhausted, that the losses, costs or other expenses incurred with the resolution tools should be borne by the Fund.
101.	Rec. 59	(59) As a *principle,* contributions should be collected from *the industry* prior to and independently of any operation of resolution. When prior funding is insufficient to cover the losses or costs incurred by the use of the Fund*,* additional contributions should be collected to bear the additional cost or loss. Moreover, the Fund should be able to contract borrowings or other forms of support from financial **entities** or other third parties where its available funds are not sufficient to cover the losses, costs and other expenses incurred by the use of the Fund and the extraordinary ex post contributions are not immediately accessible.
102.	Rec. 59a (new)	***(59a) In order to avoid double payments*, Member states should be able to make use of available financial means resulting from *national bank levies, taxes or resolution contributions* established after 2010 for the purpose of the ex-ante contributions**

103.	Rec. 60	(60) In order to reach a critical mass and to avoid pro-cyclical effects which would arise if the Fund had to rely solely on ex post contributions in a systemic crisis, it is indispensable that the ex-ante available financial means of the Fund amount *at least* to a certain minimum target level.
104.	Rec. 60a (new)	***(60a) The target level of the Fund should be established as a percentage of the amount of covered deposits of all credit institutions authorised in the participating Member States. However, since the amount of the total liabilities of those institutions would be, regarding the functions of the Fund, a more adequate benchmark, the Commission should assess*** **whether covered deposits or total liabilities is a more appropriate basis and if a minimum absolute amount for the Fund should be** ***introduced in the future, maintaining the level playing field with Directive [BRRD].***
105.	Rec. 61	(61) An appropriate time frame should be set to reach the target funding level for the Fund. However, it should be possible for the Board to adjust the contribution period to take into account significant disbursements made from the Fund.
106.	Rec. 61a (new)	**(61a) Ensuring effective and sufficient financing of the single resolution fund is of paramount importance to the credibility of the single resolution mechanism. The capacity of the Single Resolution Board to contract alternative funding means for the Fund, should be enhanced in a manner that optimises the cost of funding and preserves the creditworthiness of the Fund. Immediately after the entry into force of this Regulation, the necessary steps should be taken by the Board in cooperation with the participating Member States to develop the appropriate methods and modalities permitting to enhance the borrowing capacity of the Single Resolution Fund that should be in place by the date of application of this Regulation.**
107.	Rec. 62	(62) Where participating Member States have already established national resolution financing arrangements, they should be able to provide that the national resolution financing arrangements use their available financial means, collected from **entities** in the past by way of ex-ante contributions, to compensate **entities** for the ex-ante contributions which those **entities** should pay into the Fund. Such restitution should be without prejudice to the obligations of Member States under Directive **[DGSD]**.
108.	Rec. 63	(63) In order to ensure a fair calculation of contributions and provide incentives to operate under a model which presents less risk, contributions to the Fund should take account of the degree of risk incurred by the credit institution ***in accordance with Directive [BRRD] and the delegated acts adopted pursuant thereto***.

109.	Rec. 64	(64) In order to ensure the proper sharing of resolution costs between deposit guarantee schemes and the Fund, the deposit guarantee scheme to which an **entity** under resolution is affiliated *should be required to make a contribution not greater than* the amount of losses that it would have had to bear if the **entity** had been wound up under normal insolvency proceedings.
110.	Rec. 65	(65) So as to protect the value of the amounts held in the Fund, these amounts should be invested in sufficiently safe, diversified and liquid assets.
111.	Rec. 66	(66) The Commission should be empowered to adopt delegated acts in accordance with Article 290 TFEU in order to determine the type of contributions to the Fund and the matters for which contributions are due, the manner in which the amount of the contributions is calculated and the way in which they are to be paid; **determine the annual contributions necessary to cover the administrative expenditure of the Board before it becomes fully operational;** specify registration, accounting, reporting and other rules necessary to ensure that the contributions are fully and timely paid;-determine the contribution system for institutions that have been authorized to operate after the Fund has reached its target level; determine the criteria for the spreading out in time of the contributions; determine the circumstances under which the payment of contributions may be advanced; **determine the criteria for determining the number of years by which the initial period for reaching the target fund level can be extended;**-determine the criteria for establishing the-annual contributions **when the available financial means of the Fund diminishes below its target level after the initial period**; determine the measures to specify the circumstances and modalities under which ex-post contributions may be temporarily suspended for individual institutions. **(66a) The Council should, *within the framework of the delegated acts adopted under BRRD*, adopt implementing acts to specify *the application of* the methodology for the calculation of individual contributions to the Single Resolution Fund, *as well as* the technical modalities to compute the flat contribution and the risk adjusted contribution. This methodology should ensure that both the flat and the risk adjusted elements in the formula for the calculation of individual contributions are accounted in a way that is consistent with resolution principles and in line with Art. 94(7)BRRD. The methodology should take into account the principle of proportionality, without creating distortions between banking sector structures of the Member States.**

112.	Rec. 66a (new)	(66a) As reflected in the Declaration No 39 on Article 290 of the TFEU, the Commission, in accordance with the established practice, in preparation of draft delegated acts foreseen in this Regulation, should continue to consult experts appointed by the Member States. It is also of particular importance in this area that the Commission, where relevant, carry out appropriate consultations during its preparatory work with the European Central Bank and the Board in their fields of competence.
113.	Rec. 66b (new)	[…]
11 3a.		**(66b)** *Resolution measures* **should be** *properly notified and, subject to limited exceptions in this* **Regulation**, *made public. However, as information obtained by* **the Board, national** *resolution authorities and their professional advisers during the resolution process is likely to be sensitive, before the resolution decision is made public, that information should be subject to an effective confidentiality regime.* *It must be taken into account that information on the contents and details of resolution plan and the result of any assessment of these plans may have far reaching effects, in particular on the undertakings concerned. Any information provided in respect of a decision before it is taken, be it on whether the conditions for resolution are satisfied, on the use of a specific tool or of any action during the proceedings, must be presumed to have effects on the public and private interests concerned by the action. However, already the simple information that* **the Board and national** *resolution* **authorities are** *examining a specific* **entity** *could have negative effects for that* **entity**. *It is therefore necessary to ensure that there are appropriate mechanisms for maintaining the confidentiality of such information, such as the content and details of resolution plans and the result of any assessment carried out in that context.*
114.	Rec. 67	(67) To preserve the confidentiality of the work of the Board, its members, staff of the Board, including the staff exchanged with or seconded by participating Member States for the purpose of carrying out resolution duties should be subject to requirements of professional secrecy, even after their duties have ceased. ***Those requirements should also apply to other persons authorised by the Board and persons authorised or appointed by the national resolution authorities of the Member States to conduct on-site inspections, and to observers invited to attend the plenary and executive sessions' meetings of the Board.*** For the purpose of carrying out the tasks conferred upon it, the Board should be authorized, subject to conditions, to exchange information with national or Union authorities and bodies.

115.	Rec. 68	(68) In order to ensure that the Board is **assimilated** in the European System of Financial Supervision, Regulation (EU) No 1093/2010 should be amended in order to include the Board in the concept of competent authorities established by that Regulation. Such assimilation between the Board and competent authorities pursuant to Regulation No 1093/2010 is consistent with the functions attributed to EBA pursuant to Article 25 of Regulation No 1093/2010 to contribute and participate actively in the development and coordination of recovery and resolution plans and to aim at the facilitation of the resolution of failing **entities** and in particular cross border groups.
116.		(69) Until the Board is fully operational, the Commission should be responsible for the initial operations including the designation of an interim **Chair** to authorise all necessary payments on behalf of the Board.
117.	Rec. 69a (new)	(69a) The Single Resolution Mechanism brings together the Council, the Commission, the Board and the resolution authorities of the participating Member States. The Court of Justice of the European Union should have jurisdiction to review the legality of decisions adopted by the Council, the **Commission** and the Board, in accordance with Article 263 TFEU, as well as for determining their non-contractual liability. Furthermore, the Court of Justice of the European Union has, according to Article 267 TFEU, competence to give preliminary rulings upon request of national judicial authorities on the validity and interpretation of acts of the institutions, bodies or agencies of the Union. National judicial authorities should be competent, in accordance with their national law, for reviewing the legality of decisions adopted by the resolution authorities of the participating Member States in the exercise of their powers as laid down in this Regulation, a well as for determining their non-contractual liability.
118.	Rec. 70	(70) This Regulation respects the fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union, notably the right to property, the protection of personal data, the freedom to conduct a business, the right to an effective remedy and to a fair trial, and has to be implemented in accordance with those rights and principles.
119.	Rec. 71	(71) Since the objectives of this Regulation, namely setting up an efficient and effective single European framework for the resolution of **entities** and ensuring the consistent application of resolution rules, cannot be sufficiently achieved at the Member State level and can therefore be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

119a	Rec. 71a new	**(71a) In case the close cooperation with the European Central Bank of a participating Member State, whose currency is not the euro, is terminated in accordance with Article 7 of Regulation 1024/2013, a fair partition of the cumulated contributions from the participating Member State concerned should be decided taking into account the interests of both the participating Member State concerned and the Single Resolution Fund.**
120.		[…]
121.		[…]
122.		[…]
123.		**(71b) The transfer of contributions raised at national level under article 65 to 67 should allow the Single Resolution Fund to operate and, by consequence, the resolution tools to be applied in an effective manner. Therefore, the applicability of the provisions of this Regulation relating to the resolution tools and the contributions should take place from 1 January 2016. This date could be postponed by periods of one month if the conditions allowing the transfer of the contributions raised at national level have not been met.**

		COMPROMISE TEXT
124.		PART I GENERAL PROVISIONS
125.		*Article 1*
126.	Art. 1 – title	*Subject matter*
127.	Art. 1 – subpara 1	This Regulation establishes uniform rules and a uniform procedure for the resolution of the entities referred to in Article 2 that are established in the participating Member States referred to in Article 4.
128.	Art. 1 – subpara 2	Those uniform rules and procedure shall be applied by the ***Board*** together with ***the Commission and*** **the** Council and the resolution authorities of the participating Member States within the framework of a single resolution mechanism established by this Regulation. The single resolution mechanism shall be supported by a single bank resolution fund (hereinafter called the Fund). The use of the Fund shall be contingent upon the entry into force of an agreement among the participating Member States (hereinafter called the Agreement) on transferring the funds raised at national level towards the Fund as well as on a progressive merger of the different funds raised at national level to be allocated to national compartments of the Fund
129.		*Article 2*
130.	Art. 2 – title	*Scope*
131.	Art. 2 – intro	This Regulation shall apply to the following entities:
132.	Art. 2 – point a	(a) credit institutions established in participating Member States;
133.	Art. 2 – point b	(b) parent undertakings established in one of the participating Member States, including financial holding companies and mixed financial holding companies when subject to consolidated supervision carried out by the ECB in accordance with Article 4(1)(i) of *Regulation (EU)No 1024/2013*;
134.	Art. 2 – point c	(c) investment firms and financial institutions established in participating Member States when they are covered by the consolidated supervision of the parent undertaking carried out by the ECB in accordance with Article 4(1)(g) of *Regulation (EU)No 1024/2013*.
135.		*Article 3*
136.	Art. 3 title	*Definitions*

137.	Art. 3 – intro	For the purposes of this Regulation, the definitions laid down in Article 2 of Directive [*BRRD*] and Article 3 of *Directive 2013/36/EU* shall apply. In addition, the following definitions shall apply:
138.	Art. 3 – point 1	(1) 'national competent authority' means any national competent authority as defined in Article 2(2) of *Regulation (EU)No 1024/2013*;
139.	Art. 3 – point 1a (new)	***(1a) 'competent authority' means a competent authority as defined in*** **Article 4(2)(i) of Regulation (EU) No 1093/2010;**
140.	Art. 3 – point 2	(2) 'national resolution authority' means an authority designated by a participating Member State in accordance with Article 3 of Directive [*BRRD*];
141.	Art. 3 – point 2a (new)	(2a) 'relevant national resolution authority' means the national resolution authority of a participating Member State in which any **entity** or a group~~'s~~ **entity** is established.
142.	Art. 3 – point 3	(3) 'resolution action' means the *decision to place* an institution or an entity referred to in Article 2 *under resolution pursuant to* **Article 16** *of this Regulation, the application of a resolution tool* or the exercise of one or more resolution powers;
143.	Art. 3 – point 3a (new)	***(3a) 'the Board' means the Single Resolution Board established in accordance with Article 38 of this Regulation;***
144.	Art. 3 – point 4	(4) 'covered deposits' means deposits **as defined in Article 2(1)(d) of** Directive [DGSD];
145.	Art. 3 – point 5	(5) 'eligible deposits' means *eligible* deposits **as defined in Article 2(1)(c) of** Directive [DGSD];
146.	Art. 3 – point 6	[…]
147.	Art. 3 – point 7	[…]
148.	Art. 3 – point 8	[…]
149.	Art. 3 – point 9	[…]
150.	Art. 3 – point 10	[…]
151.	Art. 3 – point 11	(11) 'institution under resolution' means an entity referred to in Article 2 in respect of which a resolution action is taken;
152.	Art. 3 – point 12	(12) 'institution' means a credit institution, or an investment firm covered by consolidated supervision in accordance with point (c) of Article 2;

153.	Art. 3 – point 13	(13) ‘group’ means a parent undertaking and its subsidiaries, which are entities as referred to in Article 2;
153 a.	Art. 3 point 13a (new)	*(13a)‘cross-border group’ means a group having entities* **within the meaning of Article 2** *established in more than one* **participating** *Member State;*
154.	Art. 3 – point 14	[…]
155.	Art. 3 – point 15	(15) *'sale of business tool' means the mechanism for effecting a transfer by a resolution authority of shares or other instruments of ownership issued by an institution under resolution, or assets, rights or liabilities of an institution under resolution to a purchaser that is not a bridge institution, in accordance with* **Article 21**;
156.	Art. 3 – point 15a (new)	(15a) 'extraordinary public financial support' means State Aid within the meaning of Article 107 (1) of the Treaty on the Functioning of the European Union *or any other public financial support at supra-national level, which if provided at national level would constitute State aid*, that is provided in order to preserve or restore the viability, liquidity or solvency of an institution or **entity referred to in Article 2** *or a group of which such an entity forms part*.
157.	Art. 3 – point 16	(16) *'bridge institution tool' means the mechanism for transferring shares or other instruments of ownership issued by an institution under resolution or assets, rights or liabilities of an institution under resolution to a bridge institution, in accordance with* **Article 22***;*
158.	Art. 3 – point 17	(17) *'asset separation tool' means the mechanism for effecting a transfer of assets, rights or liabilities of an institution under resolution to an asset management vehicle in accordance with* **Article 23***;*
159.	Art. 3 – point 18	(18) *'bail-in tool' means the mechanism for effecting the exercise of the write-down and conversion powers in relation to liabilities of an institution under resolution in accordance with* **Article 24***;*
160.	Art. 3 – point 19	(19) ‘available financial means’ means the cash, deposits, assets and irrevocable payment commitments available to the Fund for the purposes listed under Article71(1);
161.	Art. 3 – point 20	(20) ‘target funding level’ means the amount of available financial means to be reached under Article 65(1);
161a	Art. 3 – point 20a	**(20a) ‘agreement’ means the agreement on the transfer and mutualisation of contributions to the single resolution fund;**

161b	Art. 3 – point 20b	**(20b) 'transitional period' means the period going from the date of application of this Regulation as determined under Article 88(2) and (6) until the Fund reaches the target level or 1 January 2024 whichever is earlier.**
162.		*Article 4*
163.	Art. 4 title	*Participating Member States*
164.	Art. 4 – subpara 1	1. Participating Member States within the meaning of Article 2 of [the SSM Regulation] shall also be participating Member States for the purposes of this Regulation.
165.	Art. 4 – subpara 2 (new)	2. In case a Member State suspends or terminates close cooperation in accordance with Article 7 of [the SSM Regulation], **entities** established in that Member State shall cease to be covered by this Regulation from the date of application of such decision on suspending or terminating close co–operation.
165 a	Art. 4 – para 2a	**2a. In case the close cooperation of a Member State whose currency is not the euro with the European Central Bank is terminated in accordance with Article 7 of Regulation 1024/2013, the Board shall decide within a deadline of 3 months since the adoption of the decision on termination on close cooperation, in agreement with that Member State, on the modalities for the recoupment of contributions that the Member State concerned has transferred to the Fund and any conditions thereto associated.** **Recoupments shall include the part of the compartment corresponding to the Member State concerned not subject to mutualisation. If during the transitional period, as laid down in the agreement, recoupments of the non mutualised part are not sufficient to permit the funding of the establishment by the Member State concerned of its national financial arrangement in accordance with Directive (xx BRRD), recoupments shall also include the totality or a part of the part of the compartment corresponding to that Member State subject to mutualisation in accordance with the agreement or otherwise, after the transitional period, the totality or a part of the contributions transferred by the Member State concerned during the close cooperation, in an amount sufficient to permit the funding of the said national financial arrangement.** **When assessing the amount of financial means to be recouped from the mutualised part or otherwise, after the transitional period, from the Fund, the following additional criteria shall be taken into account:**

		i) the manner in which termination of close cooperation with the European Central Bank has taken place, whether voluntarily in accordance with Article 7(6) of Regulation 1024/2013, or not. **ii) the existence of resolution actions on-going by the date of termination.** **iii) the economic cycle of the Member State concerned by termination.** **Recoupments shall be distributed during a limited period of time commensurate to the duration of the close cooperation. The Member State's concerned share of contributions made from the Fund to resolution actions during the period of close cooperation shall be deducted from recoupments.**
166.	Art. 4 – subpara 3 (new)	3. This Regulation shall continue to apply to resolution proceedings which are on–going on the date of application of a decision referred to in paragraph 2.
167.		*Article 5*
168.	Art. 5 title	*Relation to Directive [BRRD] and applicable national law*
169.	Art. 5 – para –1 (new)	[…]
170.	Art. 5 – para 1	1. Where, by virtue of this Regulation, the Board exercises tasks or powers, which, according to Directive [ ] are to be exercised by the national resolution authority, the Board shall, for the application of this Regulation and ***of*** Directive [ ], be considered to be the relevant national resolution authority or, in case of cross–border group resolution, the relevant group ***level*** resolution authority.
171.	Art. 5 – para 1 a (new)	[…]
172.	Art. 5 – para 2	[…]
173.	Art. 5 – para 3	[…]

174.	Art. 5 – para 4 (new) – subpara 1	4. The Council, the Commission and the Board shall take decisions subject to and in compliance with the relevant Union law and in particular any legislative and non–legislative acts, including those referred to in Article 290 and 291 TFEU.
175.	Art. 5 – para 4 (new) – subpara 2	The Council, the Commission and the Board shall be subject to binding regulatory and implementing technical standards developed by EBA and adopted by the Commission in accordance with Articles 10 to 15 of Regulation (EU) No 1093/2010 and to any guidelines and recommendations issued by the EBA under Article 16 of that Regulation. They shall make every effort to comply with any guidelines and recommendations of the EBA which relate to tasks of a kind to be performed by those bodies. Where they do not comply or do not intend to comply with such guidelines or recommendations the Authority shall be informed thereof in accordance with Article 16(3) of Regulation [EBA]. **The Council, the Commission and the Board shall cooperate with EBA in the application of Articles 25 and 30 of the EBA Regulation.** ***The Board shall also be subject to any decisions of EBA in accordance with Article 19 of Regulation (EU) No 1093/2010*** **where the Directive BRRD provides for such decisions.**
176.		*Article 6*
177.	Art. 6 title	*General principles*
178.	Art. 6 – para 1	1. No action, proposal or policy of the Board, **the Council,** the Commission or a national resolution authority shall discriminate against entities, deposit holders, investors or other creditors established in the **European** Union on grounds of their nationality or place of business.
179.	Art. 6 – para 1 a (new)	***1a. Every action, proposal or policy of the Board, the Commission and the Council or of a national resolution authority in the framework of the SRM shall be undertaken with full regard and duty of care for the unity and integrity of the internal market.***
180.	Art. 6 – para 2	2. When making decisions or taking action, which may have an impact in more than one ▌Member State, and in particular when taking decisions concerning groups established in two or more Member States, due consideration shall be given to the resolution objectives as set out in Article 12 and all of the following factors:

181.	Art. 6 – para 2 – point a	(a) the interests of the ▌Member States where a group operates and in particular the impact of any decision or action or inaction on the financial stability, **fiscal resources,** the economy, **the single resolution fund and the financing arrangements,** the deposit guarantee scheme or the investor compensation scheme of any of those Member States;
182.	Art. 6 – para 2 – point b	(b) the objective of balancing the interests of the various Member States involved and **of** avoiding unfairly prejudicing or unfairly protecting the interests of a ▌Member State;
183.	Art. 6 – para 2 – point c	(c) the need to minimize a negative impact for any part of a group of which an entity referred to in Article 2, which is subject to a resolution, is a member;
184.	Art. 6 – para 2 – point c a (new)	[…]
185.	Art. 6 – para 2 – point d	[…]
186.	Art. 6 – para 2 – point e	[…]
187.	Art. 6 – para 2a (new)	2a. When making decisions or taking actions, in particular regarding entities established in both participating and non–participating Member States, possible negative effects on non–participating Member States, including on entities established in these Member States, **shall** be considered.
188.	Art.6 – para 3	3. **The Council,** the Commission ***and the Board*** shall balance the factors referred to in paragraph 2 with the resolution objectives referred to in Article 12 as appropriate to the nature and circumstances of each case and shall comply with the decisions made by Commission under Article 107 TFEU **and referred to in Article 16a**.
189.	Art. 6 – para 4	***Decisions or actions*** of the Board, the Commission **or** the Council shall ***neither*** require Member States to provide extraordinary public financial support ***nor impinge on the budgetary sovereignty and fiscal responsibilities of the Member States***.
190.	Art. 6 – para 4 a (new)	[…]
191.	Art. 6 – para 4 b (new)	[…]
192.	Art. 6 – para 4 c (new)	[…]

193.	Art. 6 – para 5 (new)	5. Where the Board takes a decision that is addressed to a national resolution authority, the national resolution authority shall have the right to specify further the measures to be taken. Such specifications **shall** be in compliance with the decision of the Board in question.
193 a.	Art. 6a (new)	**Article 6a**
193 b.		**Division of tasks within the SRM**
193 c.		**1. The Board shall be responsible for the effective and consistent functioning of the SRM.**
193 d.		**2. The Board shall be responsible for ~~the~~ drawing up the resolutions plans and adopting all decisions relating to resolution for the following entities or groups subject to the provisions referred to in Article 29(1):**
193 e.		(a) for the entities referred to in Article 2 that are not part of a group, and for groups~~.~~,
193f.		**(i)** which are considered significant in accordance with Article 6(4) of Council Regulation (EU) No 1024/2013; **or**
193 g.		**(ii) in relation to which the ECB has decided in accordance with Article 6(5)(b) of Council Regulation (EU) No 1024/2013 to exercise directly itself all the relevant powers; and**
193 h.		(b) for other cross–border groups.
193i.		**3. In relation to entities and groups, other than those referred to in paragraph 2, without prejudice to the responsibilities of the Board for the tasks conferred on it by this Regulation, the national resolution authorities shall carry out and be responsible for the following tasks:**
193j.		**(a) adopt resolution plans and carry out an assessment of resolvability in accordance with Articles 7 and 8 and the procedure set out in Article 7a;**
193 k.		**(b) adopt measures during early intervention in accordance with Article 11(3);**
193l.		**(c) apply simplified obligations or waive the obligation of drafting resolution plans, in accordance with Article 9;**
193 m.		**(d) set the level of minimum requirement for own funds and eligible liabilities, in accordance with Article 10;**

193 n.		**(e) adopt resolution decisions and apply resolution tools set out in this Regulation, in accordance with the relevant procedures and safeguards, provided that the resolution action does not require any use of the Fund and is financed exclusively by the tools set out in Articles 18, 21 to 24 and/or the deposit guarantee scheme, in compliance with the provisions of Article 73, and in accordance with the procedure set out in Article 29;**
193 o.		**(f) write down or convert capital instruments pursuant to Article 18, in accordance with the procedure set out in Article 29.** **If the resolution action requires the use of the Fund, the Board shall adopt the resolution scheme.**
193 oa.		**When adopting a resolution decision, the national resolution authorities, shall take into account and follow the resolution plan as referred to in Article 7a, unless they assess, taking into account circumstances of the case, that the resolution objectives will be achieved more effectively by taking actions which are not foreseen in the resolution plan.**
193 p.		**When carrying out the tasks referred to in this paragraph, the national resolution authorities shall apply the relevant provisions of this Regulation. Any references to the Board in Article 5(4), Article 6(3), Article 7(4), (4b), (9), and (9a), Article 8(1) to (8), Article 9, Article 10, Article 11, Article 12, Article 13(1) to (3), Article 14, Article 16(1) first subparagraph, (1a), (5), Article 17, Article 18 (1) to (5), (6) second subparagraph, (7), and (8), Article 19(1), (3) and (4b), Article 20, Article 21, Article 22(3), Article 24(1) to (15), (16) second subparagraph second sentence, third subparagraph, fourth subparagraph first, third and fourth sentences shall be read as references to the national resolution authorities. For this purpose they shall make use of their powers under national law transposing Directive [BRRD] in accordance with the conditions set out in national law.** **The national resolution authorities shall inform the Board in advance of the measures to be taken referred to in this paragraph and closely coordinate those measures with the Board.** **They shall submit the resolution plans referred to in Article 7a, as well as any update, to the Board accompanied by a reasoned assessment of the resolvability of the institution concerned in accordance with Article 8.**

193 q.		4. When necessary to ensure consistent application of high resolution standards under this Regulation, **the Board may:** **(i) further to the notification of a measure under paragraph (3) by a national resolution authority pursuant to Article 29(1a), within the appropriate timeframe having regard to the urgency of the circumstances, issue a warning to the relevant national resolution authority where the Board considers that the draft decision with regard to any entity or group referred to in paragraph 3 does not comply with this Regulation or with its general instructions referred to in Article 29(1)(i)** **(ii) at any time decide, in particular if its warning referred to in point (i) is not being appropriately addressed, on its own initiative after consulting with the national resolution authority concerned or upon request from the national resolution authority concerned,** to exercise directly all the relevant powers under this Regulation also with regard to any entity or group referred to in paragraph 3.
193r.		**5. Notwithstanding paragraph 3, participating Member States may decide that the Board shall exercise all relevant powers and responsibilities conferred to it by this Regulation in relation to entities and groups, other than those referred to in paragraph 2, established in their territory. In this case, the special provisions in Article 7a, paragraph 1a of Article 10, paragraph 1 of Article 29 and paragraphs 3 and 4 of this Article shall not apply. Member States that intend to make use of this option shall notify the Board and the Commission. The notification shall take effect from the day of its publication in the Official Journal.**
194.		PART II
195.		SPECIFIC PROVISIONS
196.		TITLE I
197.		FUNCTIONS WITHIN SINGLE RESOLUTION MECHANISM AND PROCEDURAL RULES
198.		Chapter 1
199.		*Resolution planning*
200.		*Article 7*
201.	Art. 7 title	*Resolution plans drawn up by the Board*

202.	Art. 7 – para 1	1. The Board shall draw up **and adopt** resolution plans **for the entities and groups referred to in Article 6a(2), and for the entities and groups referred to in Article 6a(4)(ii) and (5) when the conditions for the application of these paragraphs are met.**
203.	Art. 7 – para 1 – point a (new)	[…]
204.	Art. 7 – para 1 – point a (new)	[…]
205.	Art. 7 – para 1a (new)	1a. The Board shall draw up the resolution plans *after consultation* with the national competent authorities and the national resolution authorities, including the group resolution authority, of the participating Member States in which the entities are established. To this end the Board **may** require national resolution authorities to prepare and submit to the Board draft resolution plans and the group resolution authority to prepare and submit to the Board a draft group resolution plan.
206.	Art. 7 – para 1b (new)	1b. In order to ensure effective and consistent application of this Article, the Board shall issue **guidelines** and address instructions to national resolution authorities for the preparation of draft resolution plans and draft group resolution plans relating to specific individual entities or groups.
207.	Art. 7 – para 2	2. For the purposes of paragraph 1, the national resolution authorities shall forward to the Board all information necessary to draw up and implement the resolution plans, as obtained by them in accordance with Articles 10 and 12(1) of Directive [*BRRD*], without prejudice to Chapter 5 of this Title.
208.	Art. 7 – para 2 a (new)	***Deleted***
209.	Art. 7 – para 3	3. The resolution plan shall set out options for applying the resolution tools and resolution powers referred to in this Regulation to the entities referred to in paragraph 1.
210.	Art. 7 – para 4	4. The resolution plan shall provide for the resolution actions which the Board may take where an entity or a group referred to in paragraph 1 meet the conditions for resolution. *The information referred to* **in paragraph 5** *shall be disclosed to the institution concerned.* *When drawing up* **and updating** *the resolution plan,* **the Board** *shall identify any material impediments to resolvability and, where necessary and proportionate, outline relevant actions for how those impediments could be addressed, according to Article 8.*

		The resolution plan shall take into consideration *relevant* scenarios including that the event of failure may be idiosyncratic or may occur at a time of broader financial instability or of system wide events. The resolution plan shall not assume any of *the following:* - extraordinary public financial support besides the use of the Fund established in accordance with **Article 64**, - *any central bank emergency liquidity assistance, or* - *any central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms.* **4a.** *The resolution plan shall include an analysis of how and when an institution 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.* **4b. The Board** *may require institutions to assist them in the drawing up and updating of the plans.*
211.	Art. 7 – para 5	5. The resolution plan for each entity shall include, *quantified whenever appropriate and possible:*
212.	Art. 7 – para 5– point a	(a) a summary of the key elements of the plan;
213.	Art. 7 – para 5 – point b	(b) a summary of the material changes to the institution that have occurred after the latest resolution information was filed;
214.	Art. 7 – para 5 – point c	(c) a demonstration of how critical functions and core business lines could be legally and economically separated, to the extent necessary, from other functions so as to ensure continuity upon the failure of the institution;
215.	Art. 7 – para 5 – point d	(d) an estimation of the timeframe for executing each material aspect of the plan;
216.	Art. 7 – para 5 – point e	(e) a detailed description of the assessment of resolvability carried out in accordance with Article 8;
217.	Art. 7 – para 5 – point f	(f) a description of any measures required pursuant to Article 8(5) to address or remove impediments to resolvability identified as a result of the assessment carried out in accordance with Article 8;
218.	Art. 7 – para 5 – point g	(g) a description of the processes for determining the value and marketability of the critical functions, core business lines and assets of the institution;

219.	Art. 7 – para 5 – point h	(h) a detailed description of the arrangements for ensuring that the information required pursuant to **Article 10 of [BRRD]** is up to date and at the disposal of the resolution authorities at all times;
220.	Art. 7 – para 5 – point i	(i) an explanation as to how the resolution options could be financed without the assumption of *any of the following:* *(i)* extraordinary public financial support **besides the use of the Fund established in accordance with Article 64**, *(ii) any central bank emergency liquidity assistance, or* *(iii) any central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms;*
221.	Art. 7 – para 5 – point j	(j) a detailed description of the different resolution strategies that could be applied according to the different possible scenarios *and the applicable timescales;*
222.	Art. 7 – para 5 – point k	(k) a description of critical interdependencies;
223.	Art. 7 – para 5 – point l	*deleted*
224.	Art. 7 – para 5 – point m	(m) a description of options for preserving access to payments and clearing services and other infrastructures *and, an assessment of the portability of clients positions* **(ma)** *an analysis of the impact of the plan on the employees of the institution, including an assessment of any associated costs, and a description of envisaged procedures to consult with staff during the resolution process, taking into account national systems for dialogue with social partners where applicable;*
225.	Art. 7 – para 5 – point n	(n) a plan for communicating with the media and the public;
226.	Art. 7 – para 5 – point o	(o) the minimum requirement for own funds and eligible liabilities required pursuant to Article 10 and a deadline to reach that level, where applicable;
227.	Art. 7 – para 5 – point p	(p) where applicable, the minimum requirement for own funds and contractual bail–in instruments pursuant to Article 10, and a deadline to reach that level, where applicable;
228.	Art. 7 – para 5 – point q	(q) a description of essential operations and systems for maintaining the continuous functioning of the institution's operational processes;

229.	Art. 7 – para 5 – point r	*(r) where applicable any opinion expressed by the institution in relation to the resolution plan*
230.	Art. 7 – para 6	6. Group resolution plans shall include a plan for the resolution of the group**, headed by the EU parent undertaking established in a participating Member State,** as a whole**, either through resolution at the level of the EU parent undertaking or through break up and resolution of the subsidiaries. The group resolution plan** shall identify measures for the resolution of: *(i) the EU parent undertaking;* *(ii) the subsidiaries that are part of the group and that are located in the EU;* *(iii) the entities referred to* **Article 2 point (b)***; and* *(iv) subject to* **Article 31,** *the subsidiaries that are part of the group and that are located outside the EU.* **6a.** *The group resolution plan shall:* *(a) set out the resolution actions to be taken in relation to group entities, both through resolution actions in respect of the entities referred to in* **Article 2 point (b)** *and subsidiary institutions and through coordinated resolution actions in respect of subsidiary institutions, in those scenarios provided for in* **paragraph 4;** *(b) examine the extent to which the resolution tools and powers could be applied and exercised in a coordinated way to group entities located in the Union, including measures to facilitate the purchase by a third party of the group as a whole, or separate business lines or activities that are delivered by a number of group entities, or particular group entities, and identify any potential impediments to a coordinated resolution;* **(ba) include** *a detailed description of the assessment of resolvability carried out in accordance with* **Article 8***;* *(c) where a group includes entities incorporated in third countries, identify appropriate arrangements for cooperation and coordination with the relevant authorities of those third countries and the implications for*

		resolution within the Union; *(d) identify measures, including the legal and economic separation of particular functions or business lines, that are necessary to facilitate group resolution when the conditions for resolution are met;* *(e) identify how the group resolution actions could be financed and, where* **the Fund and** *the financing arrangements* **established in accordance with Article 91 BRRD from non-participating Member States** *would be required, set out principles for sharing responsibility for that financing between sources of funding in different* **participating and non-participating** *Member States. The plan shall not assume any of the following:* *(i) extraordinary public financial support besides the use of* **the Fund established in accordance with this Regulation and** *the financing arrangements* **established in accordance with Article 91 BRRD from non-participating Member States,** *(ii) central bank emergency liquidity assistance, or* *(iii) central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms.* *Those principles shall be set out on the basis of equitable and balanced criteria and shall take into account, in particular the provisions of Article 98(3b)* **of Directive BRRD** *and the impact on financial stability in all concerned Member States.* *The group resolution plan shall not have a disproportionate impact on any Member State.*
231.	Art. 7 – para 7	[…]
232.	Art. 7 – para 8	[…]

233.	Art. 7 – para 9	9. ***The Board shall*** *determine the date by which the first resolution plans shall be drawn up.* Resolution plans **and group resolution plans** shall be reviewed, and where appropriate updated, at least annually and after any *material* changes to the legal or organisational structure or to *the* business or *the* financial position *of the entity or, regarding group resolution plans, of the group including any group entity* that could have a material effect *on the effectiveness of the plan or otherwise necessitates a revision of the resolution* plan. *For the purpose of the revision or update of the resolution plans referred to in the first subparagraph, the institutions and the* **ECB and** *the* **national** *competent authorities shall promptly communicate to the* **Board** *any change that necessitates such revision or update.* **9a. The Board** *shall transmit the resolution plans and any changes thereto to the* **ECB or** *relevant competent authorities.*
234.	Art. 7 – para 9 a (new)	[…]
235.		*Article 7a*
236.	Art. 7a (new) – title	*Resolution plans drawn up by national resolution authorities*
237.	Art. 7a (new) – para 1	1. The national resolution authorities shall draw **up and adopt** resolution plans for the entities and for groups, other than those referred to **in Article 6a(2), (4)(ii) and (5) in accordance with** Article **7 (3) to (9**).
238.	Art. 7a (new) – para 4	[…]
239.	Art. 7a (new) – para 5	1a. National resolution authorities shall prepare resolution plans *after consultation* with the competent authorities.
240.	Art. 7a (new) – para 6	[…]
241.		*Article 8*
242.	Art. 8 title	*Assessment of resolvability*

243.	Art. 8 – para 1	1. When drafting and updating resolution plans in accordance with Article 7, the Board, after consultation with the competent ***authorities,*** including the ECB, and the resolution authorities of non–participating Member States in which significant branches are located insofar as is relevant to the significant branch, shall conduct an assessment of the extent to which institutions and groups are resolvable without the assumption of *any of the following:* *(i)* extraordinary public financial support **besides the use of the Fund established in accordance with Article 64**, *(ii) central bank emergency liquidity assistance, or* *(iii) central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate term;* **1a. The ECB or** *the* **national** *competent authority shall provide the recovery plan to* **the Board**. **The Board shall** *examine the recovery plan with a view to identifying any actions in the recovery plan which may adversely impact the resolvability of the institution and make recommendations to the ECB or the* **national** *competent authority on these matters.*
244.	Art. 8 – para 2	2. When drafting a resolution plan, the Board shall assess the extent to which such an entity is resolvable in accordance with this Regulation. An entity shall be deemed resolvable if it is feasible and credible for the **Board** to either liquidate it under normal insolvency proceedings or to resolve it by applying to it the different resolution tools and powers *while avoiding to the maximum extent possible any* significant adverse consequences for financial systems, including circumstances of broader financial instability or system wide events, of the Member State in which the entity is situated, or other Member States, or the Union and with a view to ensuring the continuity of critical functions carried out by the entity. *The* **Board** *shall notify EBA in a timely fashion whenever an institution is deemed not to be resolvable.*

245.	Art. 8 – para 3	3. A group shall be deemed resolvable if it is feasible and credible for the **Board** to either wind up group entities under normal insolvency proceedings or to resolve group entities by applying resolution tools and powers to group entities *while avoiding to the maximum extent possible any* significant adverse consequences for the financial systems, including circumstances of broader financial instability or system wide events, of the Member States in which *group* entities are situated, or other Member States or the Union and with a view to ensuring the continuity of critical functions carried out by those entities, either because they can be easily separated in a timely manner or by other means. *The* **Board** *shall notify EBA in a timely fashion whenever a group is deemed not to be resolvable.*
246.	Art. 8 – para 3a (new)	3a. For the purposes of paragraphs 2 and 3 and paragraph 8 point b, significant adverse consequences for the financial system or negative impact on financial stability refers to a situation where the financial system is actually or potentially exposed to a disruption that may give rise to financial distress liable to jeopardise the orderly functioning, efficiency and integrity of the internal market or the economy **or the financial system** of one or more Member States. In determining the significant adverse consequences the Board shall take into account the relevant warnings and recommendations of the ESRB and the relevant criteria developed by EBA in considering the identification and measurement of systemic risk.
247.	Art. 8 – para 4	4. For the purpose of the assessment, the Board shall-examine the matters specified in points 1 to 28 of Section C of the Annex of Directive [ ].
248.	Art. 8 – para 5	5. If pursuant to an assessment of resolvability for an entity or a group carried out in accordance with paragraphs 2 and 3, the Board after consultation with the competent authority, including the ECB, determines that there are substantive impediments to the resolvability of that entity or group, the Board shall prepare a report, in cooperation with the competent authorities, addressed to the institution or the parent undertaking analysing the substantive impediments to the effective application of the resolution tools and the exercising of the resolution powers. That report shall *consider the impact on the institution's business model and* recommend any *proportionate and targeted* measures that, in the Board's view, are necessary or appropriate to remove those impediments in accordance with paragraph 8.

249.	Art. 8 – para 6	6. The report shall **also** be notified to the competent authorities and to the resolution authorities of non–participating Member States in which significant branches **of institutions which are not part of a group** are located. It shall be supported by reasons for the assessment or determination in question and shall indicate how that assessment or determination complies with the requirement for proportionate application set out in Article 6.
250.	Art. 8 – para 7	7. Within four months from the date of receipt of the report, the entity or the parent undertaking *shall* propose to the Board *possible measures to address or remove the substantive* impediments identified in the report. The Board shall communicate any measure proposed by the entity or parent undertaking to the competent authorities*, to the EBA* and, where significant branches **of institutions that are not part of a group and** are located in non–participating Member States, to the resolution authorities of those Member States.
251.	Art. 8 – para 8	8. *The* **Board** *after consulting the competent authority, shall assess whether* **the** *measures* **referred to in paragraph 7** *effectively address or remove the substantive impediments in question.* If the measures proposed by the entity or parent undertaking concerned do not effectively *reduce or* remove the impediments to resolvability, the Board shall take a decision, after consultation with the competent ***authorities*** and, where appropriate, the *designated* macro-prudential authority, indicating that the measures proposed do not effectively *reduce or* remove the impediments to resolvability, and instructing the national resolution authorities to require the institution, the parent undertaking, or any subsidiary of the group concerned, to take any of the measures listed in paragraph 9. *In identifying alternative measures, the* **Board** *shall demonstrate how the measures proposed by the institution were not able to remove the impediments to resolvability and how the alternative measures proposed are proportionate in removing them. The* **Board** *shall take into account the threat to financial stability of those impediments to resolvability and the effect of the measures on the business of the institution, its stability and its ability to contribute to the economy, on the internal market for financial services* **and** *on the financial stability in other Member States and Union as a whole.*
252.	Art. 8 – para 8 – point a	[…]
253.	Art. 8 – para 8 – point b	[…]

254.	Art. 8 – para 8 – point c	*The* **Board** *shall* **also** *take into account* the need to avoid an impact on the institution or the group concerned which would go beyond what is necessary to remove the impediment to resolvability or would be disproportionate.
255.	Art. 8 – para 9	9. For the purpose of paragraph 8, the Board**, where applicable,** shall instruct national resolution authorities to take any of the following measures:
256.	Art. 8 – para 9 – point a	(a) to require the entity to *revise any intragroup financing agreements or review the absence thereof, or* draw up service agreements (whether intra–group or with third parties) to cover the provision of critical functions;
257.	Art. 8 – para 9 – point b	(b) to require the entity to limit its maximum individual and aggregate exposures;
258.	Art. 8 – para 9 – point c	(c) to impose specific or regular *additional i*nformation requirements relevant for resolution purposes;
259.	Art. 8 – para 9 – point d	(d) to require the entity to divest specific assets;
260.	Art. 8 – para 9 – point e	(e) to require the entity to limit or cease specific existing or proposed activities;
261.	Art. 8 – para 9 – point f	(f) to restrict or prevent the development of new or existing business lines or sale of new or existing products;
262.	Art. 8 – para 9 – point g	(g) to require changes to legal or operational structures of the entity or any *group* entity, either directly or indirectly under its control, so as to reduce complexity in order to ensure that critical functions may be legally and operationally separated from other functions through the application of the resolution tools;
263.	Art. 8 – para 9 – point h	(h) to require an entity to set up a **Union** parent financial holding company;
264.	Art. 8 – para 9 – point i	(i) to require an entity to issue eligible liabilities to meet the requirements of Article 10;
265.	Art. 8 – para 9 – point j	(j) to require an entity to **meet the requirements referred to in Article 10, including by** attempt**ing** to renegotiate any eligible liability, additional Tier 1 instrument or Tier 2 instrument it has issued, with a view to ensuring that any decision of the Commission to write down or convert that liability or instrument would be effected under the law of the jurisdiction governing that liability or instrument. **Where applicable, the national resolution authority shall directly take the measures referred to in points (a) to (j) of this paragraph.**

266.	Art. 8 – para 10	10. The national resolution authorities shall implement the instructions of the Board in accordance with Article 26.
267.	Art. 8 – para 11 (new)	11. A decision made pursuant to paragraphs 8 and 9 shall meet the following requirements:
268.	Art. 8 – para 11 (new) – point a	(a) it shall be supported by reasons for the assessment or determination in question;
269.	Art. 8 – para 11 (new) – point b	(b) it shall indicate how that assessment or determination complies with the requirement for proportionate application set out in paragraph 8.
270.		[…]
271.	Art. 8 a (new) – title	[…]
272.	Art. 8 a (new) – para 1	[…]
273.		*Article 9*
274.	Art. 9 title	*Simplified obligations for certain institutions*
275.	Art. 9 – para 1	1. The Board, on its own initiative **after consulting the national resolution authority** or upon proposal by a national resolution authority, may apply simplified obligations in relation to the drafting of resolution plans referred to, in Article 7 or may waive the obligation of drafting those plans.
276.	Art. 9 – para 2	2. National resolution authorities may propose to the Board to apply simplified obligations **to institutions or groups pursuant to paragraphs 3 and 4** or to waive the obligation of drafting resolution plans **pursuant to paragraph 5**. That proposal shall be reasoned and shall be supported by all the relevant documentation.
277.	Art. 9 – para 3	3. On receiving a proposal **to apply simplified obligations** pursuant to paragraph 2, or when acting on its own initiative, the Board, shall conduct an assessment of the institutions or group concerned and shall apply simplified obligations, if **the** failure of the institution or group would not be likely to have significant adverse consequences for the financial system or negative impact on financial stability within the meaning of Article 8(3a).

278.	Art. 9 – para 3 – subpara 1a (new)	For these purposes, the Board shall take into account: **(a)** *the nature of* the institution's or group's *business, its shareholding structure, its legal form, its risk profile, size and legal status, its interconnectedness to other institutions or to the financial system in general, the scope and complexity of its activities,* **(b)** *its membership of an IPS or other cooperative mutual solidarity systems as referred to in Article 113(6) of Regulation (EU) N° 575/2013,* **(c)** *any exercise of investment services or activities as defined in Article 4(1)(2) of Directive 2004/39/EC, and* **(d)** *whether its failure and subsequent winding up under normal insolvency proceedings would be likely to have a significant negative effect on financial markets, on other institution, on funding conditions, or on the wider economy.*
279.	Art. 9 – para 3 – subpara 1a (new) – point a	[…]
280.	Art. 9 – para 3 – subpara 1a (new) – point b	[…]
281.	Art. 9 – para 3 – subpara 1a (new) – point c	[…]
281 a	Art. 9 – para 3 – subpara 1b	**The Board** *shall make the assessment referred to in* **the first subparagraph** *after-consultation, where appropriate, with the national macroprudential authority* **and, where appropriate, with the ESRB.**

282.	Art. 9 – para 4 – subpara 1	**When applying simplified obligations, the Board shall** *determine:* *(a) the contents and details of resolution plans provided for in* **Article 7** *;* *(b) the date by which the first resolution plans shall be drawn up and the frequency for updating resolution plans which may be lower than the one provided for in* **Article 7(9);** *(c) the contents and details of the information required from institutions as provided for in* **Article 7 (5)** *and in Section B of the Annex to Directive BRRD;* *(d) the level of detail for the assessment of resolvability provided for in Article 8, and in Section C of the Annex to Directive BRRD .*
283.	Art. 9 – para 4 – subpara 2	**4a. The** *application of simplified obligations shall not in itself affect the* **Board's** *powers to take* **any resolution action.** **4b.** *Where simplified obligations are applied,* **the Board shall** *impose full, unsimplified obligations at any time* **if any of the circumstances that justified them no longer exist.**
284.	Art. 9 – para 4 – subpara 3	**4c.** Where the national resolution authority which has proposed the application of simplified obligation or the grant of a waiver in accordance with paragraph 2 considers that the decision to apply simplified obligation or to grant the waiver must be withdrawn, it shall submit a proposal to the Board to that end. In that case, the Board shall take a decision on the proposed withdrawal taking full account of the justification for withdrawal put forward by the national resolution authority in the light of the elements set out in paragraph 3 **or 5 and 5b**.
285.	Art. 9 – para 5	5. **Without prejudice of the provisions of Articles 7a and 29, on receiving a proposal to waive the obligation of drafting resolution plans pursuant to paragraph 2, or when acting on its own initiative, the Board shall, pursuant to paragraph 3,** *waive the application of* the obligation of drafting resolution plans to institutions affiliated to a central body and wholly or partially exempted from prudential requirements in national law in accordance with *Article 10 of Regulation (EU) No 575/2013.* *Where a waiver is granted* **in accordance with the first subparagraph, the obligation of drafting the resolution plan shall apply** *on a consolidated basis to the central body and institutions affiliated to it within the meaning of Article 10 of Regulation (EU) No 575/2013. For this purpose, any reference in this Chapter 1 to a group shall include a central*

		body and institutions affiliated to it within the meaning of Article 10 of Regulation (EU) No 575/2013 and their subsidiaries, and any reference to parent undertakings or institutions that are subject to consolidated supervision pursuant to Article 111 of Directive 2013/36/EU shall include the central body. **5b.** *Institutions subject to direct supervision by the European Central Bank pursuant to Article 6(4) of Council Regulation (EU) No 1024/2013 or constituting a significant share in the financial system of a participating Member State shall be the subject of individual resolution plans.* *For the purposes of this paragraph, the operations of an institution shall be considered to constitute a significant share of that* **participating** *Member State's financial system if any of the following conditions are met:* *a) the total value of its assets exceeds EUR 30 000 000 000; or* *(b) the ratio of its total assets over the GDP of the Member State of establishment exceeds 20%, unless the total value of its assets is below EUR 5 000 000 000.*
286.	Art. 9 – para 6	[…]
287.	Art. 9 – para 7	7. The Board shall inform the EBA about its application of paragraphs 1, 4 and 5.
288.		*Article 10*
289.	Art. 10 title	*Minimum requirement for own funds and eligible liabilities*
290.	Art. 10 – para 1	1. The Board shall, *after* consultation with competent authorities, including the ECB, determine the minimum requirement for own funds and eligible liabilities, as referred to in paragraph 2, subject to write down and conversion powers, that **the entities and groups referred to in Article 6a(2), and the entities and groups referred to in Article 6a(4)(ii) and (5) when the conditions for the application of these paragraphs are met,** shall be required to *meet at all times*.
291.	Art. 10 – para 1a (new)	1a. When drafting resolution plans in accordance with Article 7a, national resolution authorities shall, *after consultation* with competent authorities, determine the minimum requirement **for** own funds and eligible liabilities, as referred to in paragraph 2, subject to write down and conversion powers, that **entities** referred to in **Article 6a(3)** shall be required *to meet at all times*. In this regards the procedure established in **Article 29** will apply.
292.	Art. 10 – para 1b (new)	1b. In order to ensure effective and consistent application of this Article, the Board shall issue **guidelines** and address instructions to national resolution authorities relating to specific individual entities or groups.

293.	Art. 10 – para 2	2. *The minimum requirement shall be calculated as the amount of own funds and eligible liabilities expressed as a percentage of the total liabilities and own funds of the institution.* *For the purpose of the first subparagraph derivative liabilities shall be included in the total liabilities on the basis that full recognition is given to counterparty netting rights.*
294.	Art. 10 – para 2 – subpara 1a (new)	**1a.** *Notwithstanding* **paragraph 1, the Board** *shall waive the obligation to meet, at all times, a minimum requirement for own funds and eligible liabilities for mortgage credit institutions financed by covered bonds as defined in Article 52(4) of Directive 2009/65/EC which according to national law are not allowed to receive deposits, as:*
295.	Art. 10 – para 2 – subpara 1a (new) – point a	*a) these institutions will be resolved through national insolvency procedures, or other type of procedures implemented in accordance with Article 32, 34 or 36 in Directive [BRRD], specially provided for these institutions; and*
296.	Art. 10 – para 2 – subpara 1a (new) – point b	*b) such national insolvency procedures, or other type of procedures, will ensure that creditors of these institutions, including holders of covered bonds where relevant, would bear losses in a way that meets the resolution objectives.*
297.	Art. 10 – para 2a (new) – subpara 1	2a. The minimum requirement referred to in paragraph 2 shall not exceed the amounts of own funds and eligible liabilities sufficient to ensure that , if the bail–in tool were to be applied, the losses of the institution and parent undertaking referred to in Article 2 as well as of the ultimate parent undertaking of said institution and any institution or financial institution included in the consolidated accounts of said ultimate parent undertaking could be absorbed and the Common Equity Tier 1 ratio of all those entities could be restored to a level necessary to enable them to continue to comply with the conditions for authorisation and to carry on the activities for which they are authorised under Regulation (EU) No 575/2013 or equivalent legislation and to sustain sufficient market confidence in the institution and parent undertaking referred to in Article 2 and the ultimate parent undertaking of said institution and any institution or financial institution included in the consolidated accounts of said ultimate parent undertaking. In cases where the resolution plan anticipates that certain classes of eligible liabilities might be excluded from bail–in under Article 24 (5), or that certain classes of eligible liabilities might be transferred to a recipient in full under a partial transfer, the minimum requirement referred to in paragraph 2 shall not exceed the amount of own funds and eligible liabilities necessary to ensure that the institution and parent undertaking referred to in Article 2 has sufficient other eligible liabilities to ensure that losses of the institution and the parent undertaking referred to in Article 2 as well as of the ultimate parent undertaking of said institution and any

		institution or financial institution included in the consolidated accounts of said ultimate parent undertaking could be absorbed and the Common Equity Tier 1 ratio of all those entities could be restored to a level necessary to enable them to continue to comply with the conditions for authorisation and to carry on the activities for which it is they are authorised under Regulation (EU) No 575/2013 or equivalent legislation.
298.	Art. 10 – para 2a (new) – subpara 2	The minimum requirement referred to in paragraph 2 shall not be inferior to the total amount of any own funds requirements and buffer requirements under Regulation No. 575/2013 and Directive No. 2013/36/EU.
299.	Art. 10 – para 3	3. Within the limits set out in paragraph 2a, in order to ensure that the **entity** referred to in Article 2 can be resolved by the application of the resolution tools including, where appropriate, the bail–in tool, in a way that meets the resolution objectives, the determination referred to in paragraph 1 shall be made on the basis of the following criteria:
300.	Art. 10 – para 3 – point a	[…]
301.	Art. 10 – para 3 – point b	[…]
302.	Art. 10 – para 3 – point c	[…]
303.	Art. 10 – para 3 – point d	**(a)** the size, the business model and the risk profile of the institution and parent undertaking referred to in Article 2, including its own funds;
304.	Art. 10 – para 3 – point e	**(b)** the extent to which the Deposit Guarantee Scheme could contribute to the financing of resolution in accordance with Article 73;
305.	Art. 10 – para 3 – point f	(c) the extent to which the failure of the institution and parent undertaking referred to in Article 2 would have ~~an~~ significant adverse ~~effect~~ consequences for the financial system or negative impact on financial stability~~,~~ within the meaning of Article 8(3a), including, due to its interconnectedness with other institutions or with the rest of the financial system through contagion to other institutions.
306.	Art. 10 – para 3 – subpara 1	The determination shall specify the minimum requirement that the institutions shall be required to comply with on an individual basis, and that parent undertakings shall be required to comply with on a consolidated basis. *The minimum aggregate amount requirement for own funds and eligible liabilities at consolidated level of an EU parent undertaking shall be determined by the* **Board**, *after consultation with the consolidating supervisor, on the basis of the criteria set out in paragraph 3 and of whether the third-country subsidiaries of the group are to be resolved separately according to the resolution plan.* **The Board** *shall set the minimum requirement to be applied to the group's*

		subsidiaries on an individual basis, having regard to: *(a) the criteria listed in paragraph 3, in particular the size, business model and risk profile of the subsidiary, including its own funds; and* *(b) the consolidated requirement that has been set for the group.* The Board may decide to waive the minimum requirement on an individual basis to *a* parent institution provided that the conditions set out in points (a) and (b) of Article 39(4ca) of the Directive [ ] are met. The Board may decide to waive the minimum requirement on *an individual* basis to a subsidiary provided that the conditions set out in points (a) to (c) of Article 39 (4d) of Directive [ ] are met.
307.	Art. 10 – para 4	4. **The Board, on its own initiative after consulting the national resolution authority or upon proposal by a national resolution authority, may decide that the minimum requirement of own funds and eligible liabilities as referred to in paragraph 1 is partially met on a consolidated or on an individual basis through contractual bail-in instruments, in full respect of the criteria laid down in paragraph 2a, first and second subparagraphs, and in paragraph 3.**
308.	Art. 10 – para 5	5. To qualify as a contractual bail–in instrument under paragraph 4, the Board must be satisfied that the instrument:
309.	Art. 10 – para 5 – point a	(a) contains a contractual term providing that, where the **Board** decides to apply the bail–in tool to that institution, the instrument shall be written down or converted to the extent required before other eligible liabilities are written down or converted; and
310.	Art. 10 – para 5 – point b	(b) is subject to a binding subordination agreement, undertaking or provision under which in the event of normal insolvency proceedings, it ranks below other eligible liabilities and cannot be repaid until other eligible liabilities outstanding at the time have been settled.
311.	Art. 10 – para 6	6. The Board shall take any determination referred to in paragraph 1**, and, where relevant, in paragraph 4,** in *parallel with the development and maintenance of the* resolution plans pursuant to Article 7.
312.	Art. 10 – para 7	7. The Board shall address its determination to the national resolution authorities. The national resolution authorities shall implement the instructions of the Board in accordance with Article 26. The Board shall require that the national resolution authorities verify and ensure that institutions and parent undertakings maintain the minimum requirement provided for in paragraph 1.

313.	Art. 10 – para 8	8. The Board shall inform the ECB and the EBA of the minimum requirement that it has determined for each institution and parent undertaking under paragraph 1 *and, where relevant the requirements provided for in paragraph 4*.
314.	Art. 10 – para 8 – subpara 1a (new)	[…]
315.	Art. 10 – para 9 (new) – subpara 1a – introductory part	**8a.** *Eligible liabilities, including subordinated debt instruments and subordinated loans that do not qualify as Additional Tier 1 or Tier 2 capital shall be included in the amount of own funds and eligible liabilities referred to in paragraph 1 only if they satisfy the following conditions:*
316.	Art. 10 – para 9 (new) – subpara 1a – point a	*(a) the instrument is issued and fully paid up;*
317.	Art. 10 – para 9 (new) – subpara 1a – point b	*(b) the liability is not owed to, secured by or guaranteed by the institution itself;*
318.	Art. 10 – para 9 (new) – subpara 1a – point c	*(c) the purchase of the instrument was not funded either directly or indirectly by the institution;*
319.	Art. 10 – para 9 (new) – subpara 1a – point d	*(d) the liability has a remaining maturity of at least one year;*
320.	Art. 10 – para 9 (new) – subpara 1a – point e	*(e) the liability does not arise from a derivative;*
321.	Art. 10 – para 9 (new) – subpara 1a – point f	*(f) the liability does not arise from a deposit which benefits from preference in the national insolvency hierarchy in accordance with Article 98a of the Directive [ ].*
322.	Art. 10 – para 9 (new) – subpara 1b	*For the purpose of point (d) where a liability confers upon its owner a right to early reimbursement, the maturity of that liability shall be the first date where such right arises.*

323.	Art. 10 – para 8a (new)	**8b.** *Where a liability is governed by the law of a jurisdiction outside the Union,* **the Board may instruct** *national resolution authorities* **to** *require the institution to demonstrate that any decision of* **the Board** *to write down or convert that liability would be effected under the law of that jurisdiction, having regard to the terms of the contract governing the liability, international agreements on the recognition of resolution proceedings and other relevant matters. If the* **Board** *is not satisfied that any decision would be effected under the law of that jurisdiction, the liability shall not be counted towards the minimum requirement for own funds and eligible liabilities.* **8c. If the Commission submits a legislative proposal pursuant to Article 39(6b) BRRD, it shall, if appropriate, submit a legislative proposal amending this Regulation in the same way.**
324.		Chapter 2
325.		*Early intervention*
326.		*Article 11*
327.	Art. 11 title	*Early intervention*
328.	Art. 11 – para 1 – subpara 1	1. The ECB or **national** competent authorities shall inform the Board of any measure that they require an institution or group to take or that they take themselves pursuant to ***Article 16*** of *Regulation (EU) No 1024/2013*, pursuant to Articles 23(1)**, 23a** or 24 of Directive [*BRRD*], or pursuant to Article 104 of Directive 2013/36/EU.
329.	Art. 11 – para 1 – subpara 2	The Board shall notify the Commission of any information which it has received pursuant to the first subparagraph.
330.	Art. 11 – para 2 – subpara 1	2. From the date of receipt of the information referred to in paragraph 1, and without prejudice to the powers of the ECB and **national** competent authorities in accordance with other Union law, the Board may prepare for the resolution of the institution or group concerned.
331.	Art. 11 – para 2 – subpara 2	For the purposes of the first subparagraph, **the ECB or the relevant national competent authority** shall closely monitor, in cooperation with **the Board**, the conditions of the institution or the parent undertaking, and their compliance with any early intervention measure that has been required to take. **The ECB or the relevant competent authority shall provide the Board with** *all the information necessary in order to update the resolution plan and prepare for the possible resolution of the institution and for valuation of the assets and liabilities of the institution in accordance with* **Article 17(1) to (14)**.

332.	Art. 11 – para 3	3. The Board shall have the power to require the institution, *or the* parent undertaking, *to contact potential purchasers in order to prepare for the resolution of the institution, subject to the conditions specified in* **Article 33(2) BRRD** *and the confidentiality provisions specified in* **Article 79 of this Regulation**.
333.	Art. 11 – para 3 –point a	[…]
334.	Art. 11 – para 3 –point b	[…]
335.	Art. 11 – para 3 –point c	[…]
336.	Art. 11 – para 3 –point d	**The Board shall also have the power** to require the relevant national resolution authority to draft a preliminary resolution scheme for the institution or group concerned.
337.	Art. 11 – para 4	4. If ***the*** ECB or the ***national*** competent authorities intend to impose on an institution or a group any additional measure under ***Article 16*** of *Regulation (EU)No 1024/2013* or under Articles 23, **23a** or 24 of Directive [*BRRD*] or under Article 104 of Directive 2013/36/EU, before the *entity* or group has fully complied with the first measure notified to the Board, they shall ***inform*** the Board before imposing such additional measure on the institution or group concerned. The Board shall inform the ECB, the relevant national competent authorities and the relevant national resolution authorities about any action it takes pursuant to paragraph 3.
338.	Art. 11 – para 5	5. The ECB or the **national** competent authority, the Board and the relevant national resolution authorities shall ensure that the additional measure referred to in paragraph 4 and any action of the Board aimed at preparing for resolution under paragraph 2 are consistent.
339.		Chapter 3
340.		*Resolution*
341.		*Article 12*
342.	Art. 12 title	*Resolution Objectives*
343.	Art. 12 – para 1	1. When acting under the resolution procedure referred to in Article 16, the Council, the Commission and the Board, in respect of their respective responsibilities, shall have regard to the resolution objectives, and choose the tools and powers that, in their view, best achieve the resolution objectives that are relevant in the circumstances of the case.
344.	Art. 12 – para 2	2. The resolution objectives referred to in paragraph 1 are the following:

345.	Art. 12 – para 2 – point a	(a) to ensure the continuity of critical functions;
346.	Art. 12 – para 2 – point b	(b) to avoid significant adverse effects on financial stability in the EU and Member States concerned, *in particular by preventing* contagion, *including to market infrastructures, and by maintaining* market discipline;
347.	Art. 12 – para 2 – point c	(c) to protect public funds by minimising reliance on extraordinary public financial support;
348.	Art. 12 – para 2 – point d	(d) to protect depositors covered by Directive 94/19/EC and investors covered by Directive 97/9/EC8; **(da)** *to protect client funds and client assets.*
349.	Art. 12 – para 2 – subpara 2	When pursuing the above objectives, the Commission**, the Council,** and the Board shall seek to minimise the cost of resolution *and avoid destruction of value unless necessary to achieve the resolution objectives.*
350.	Art. 12 – para 3	*Subject to different provisions of this* **Regulation***, the resolution* objectives *are of equal significance, and* shall be balanced *as appropriate to the nature and circumstances of each case.*
351.		*Article 13*
352.	Art. 13 title	*General principles governing resolution*
353.	Art. 13 – para 1	When acting under the resolution procedure referred to in Article 16, the Council, the Commission and the Board shall take all appropriate measures to ensure that the resolution action is taken in accordance with the following principles:
354.	Art. 13 – para 1 – point a	(a) the shareholders of the institution under resolution bear first losses;
355.	Art. 13 – para 1 – point b	(b) creditors of the institution under resolution bear losses after the shareholders in accordance with the order of priority of their claims pursuant to Article 15, *save as expressly provided otherwise in this* **Regulation***;*

8 Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on investor-compensation schemes. OJ L 084, 26.03.1997, p.22.

356.	Art. 13 – para 1 – point c	(c) management *body and senior management* of the institution under resolution are replaced, except in those cases when the retention of the management *body and senior management*, in whole or in part, as appropriate to the circumstances, is considered necessary for the achievement of the resolution objectives; **(ca)** *management body and senior management of the institution under resolution shall provide all necessary assistance for the achievement of the resolution objectives;*
357.	Art. 13 – para 1 – point d	(d) individuals and entities are **made liable, subject to Member State law, under civil or criminal law for their responsibility** for the failure of the institution under resolution;
358.	Art. 13 – para 1 – point e	(e) *except where otherwise provided in this* **Regulation**, creditors of the same class are treated in an equitable manner;
359.	Art. 13 – para 1 – point f	(f) no creditor shall incur greater losses than would have been incurred if the entity referred to in Article 2 had been wound up under normal insolvency proceedings **in accordance with the safeguards provided for in Article 26**; and **(fa)** *covered deposits are fully protected.* *Resolution action shall be taken in accordance with the safeguards in this* **Regulation**.
360.	Art. 13 – para 2	2. Where an institution is a *group* entity, *without prejudice to* **Article 12**, the **Council, the** Commission, and the Board**, when deciding on the application of the** resolution tools and **the** exercise **of the** resolution powers**, shall act** in a way that minimises the impact on other *group* entities and on the group as a whole and minimises the adverse effect on financial stability in the Union *and its Member States*, particular in *the countries* where the group operates.

361.	Art. 13 – para 3	3. Where the sale of business tool, the bridge institution tool or the asset separation tool is applied to an entity referred to in Article 2, that entity shall be considered to be the subject of bankruptcy proceedings or analogous insolvency proceedings for the purposes of Article 5(1) of Directive 2001/23/EC9. **3a.** *When* **deciding on the application of the** *resolution tools and* **the** *exercise* **of the** *resolution powers*, **the Board** *shall* **instruct national resolution authorities to** *inform and consult employee representatives where appropriate.* **This is** *without prejudice to provisions on the representation of employees in company boards as provided for by national law or practice.*
362.		*Article 14*
363.	Art. 14 title	*Resolution of financial institutions and parent undertakings*
364.	Art. 14 – para 1	1. The Board shall **decide on** a resolution action in relation to a financial institution, when the conditions specified in **Article 16(1)** are met with regard to both the financial institution and with regard to the parent undertaking *subject to consolidating supervision*.
365.	Art. 14 – para 2	2. The Board shall take a resolution action in relation to a parent undertaking referred to in point (b) of Article 2, when the conditions specified in **Article 16(1)** are met with regard to both that parent undertaking and with regard to one or more subsidiaries which are institutions *or, where the subsidiary is not established in the Union, the third-country authority has determined that it meets the conditions for resolution under the laws of that third country.*
366.	Art. 14 – para 3	3. By way of derogation from paragraph 2 and notwithstanding the fact that a parent undertaking may not meet the conditions established in **Article 16(1)**, the Board may **decide on** resolution action with regards to that parent undertaking when one or more of the subsidiaries which are institutions comply with the conditions established in **Article 16(1), (3) and (4)** *and their assets and liabilities are such that their failure threatens an institution or the group as a whole* and *resolution* action with regard to that parent undertaking is necessary for the resolution of *such* subsidiaries which are institutions or for the resolution of the group as a whole. **Where a national resolution authority informs the Board that** *the insolvency law of the Member State requires that groups be treated as a whole and resolution action with regard to the parent undertaking is necessary for the resolution of such subsidiaries which are institutions or for the resolution*

9Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses. OJL 82, 22.3.2001, p. 16.

		of the group as a whole, **the Board** *may also decide on resolution action with regards to the parent undertaking.* *For the purposes of the previous subparagraph, when assessing whether the conditions in* **Article 16(1)** *are met in respect of one or more subsidiaries which are institutions, the Board may disregard any intragroup capital or loss transfers between the entities, including the exercise of write down or conversion powers.*
367.		*Article 15*
368.	Art. 15 title	*Order of priority of claims*
369.	Art. 15 – para 1 – introductory part	**1.** When applying the bail–in tool to an entity referred to in Article 2, and without prejudice to liabilities excluded from the bail–in tool under Article 24(3), **the Board, the Commission, or, where applicable, the national resolution authorities, shall decide on the exercise of the write-down and conversion powers** including on any possible application of Article 24 (5), **and the** national resolution authorities shall exercise **those** powers following the **requirements** laid down in Article 43 of Directive[…] and in accordance with the reverse order of priority of claims set out by their national law, including the provisions transposing Article 98a of the Directive [.] **1a. Participating Member States shall notify to the Commission and to the Board the ranking of claims against entities referred to in Articles 7 and 7a in national insolvency proceedings on every 1 July of a calendar year or immediately, where there is a change of the ranking.**
370.	Art. 15 – para 1 – point a	[…]
371.	Art. 15 – para 1 – point b	[…]
372.	Art. 15 – para 1 – point c	[…]
373.	Art. 15 – para 1 – point d	[…]
374.	Art. 15 – para 1 – point e	[…]

375.	Art. 15 – para 1 – point f	[…]
376.	Art. 15 – para 1– subpara 2	[…]
377.	Art. 15 – para 1 – subpara 2a (new)	When the bail–in tool is applied, the relevant deposit guarantee scheme shall be liable **in the terms provided for in Article 73.**
378.		*Article 16*
379.	Art. 16 title	*Resolution procedure*
380.	Art. 16 – para 0 (new)	[...]
381.	Art. 16 – para 1	**1. The Board shall adopt a resolution scheme pursuant to paragraph 5 in relation to entities and groups referred to in Article 6a(2), and to the entities and groups referred to in Article 6a(4)(ii) and (5) when the conditions for these paragraphs are met, only when it assesses, in its executive session, on receiving a communication pursuant to the fourth subparagraph or on its own initiative, that the following conditions are met:** *a) the entity is failing or likely to fail;* *b) having regard to timing and other relevant circumstances, there is no reasonable prospect that any alternative private sector measures, including measures by IPS, or supervisory action, including early intervention measures or the write down or conversion of capital instruments in accordance with Article 18, taken in respect of the entity, would prevent its failure within a reasonable timeframe;* *(c) a resolution action is necessary in the public interest pursuant to paragraph 4.*
382.	Art. 16 – para 1 – subpara 1 a (new)	**The determination of the condition under point a) shall be made by the ECB, after consulting the Board. The Board, in its executive session, may make such determination only after having previously informed the ECB about its intention and only if the ECB, within 3 calendar days after reception of such information, does not make such determination. The ECB shall provide the Board with any relevant information without delay that the latter requests in order to inform its assessment.**

383.	Art. 16 – para 1 – subpara 2 a (new)	**The determination of the condition under point b) shall be made by the Board, in its executive session, or where applicable by the national resolution authorities, in close cooperation with the ECB. The ECB may also inform the Board or the national resolution authorities concerned that it considers that the condition under point b) is met.**
384.	Art. 16 – para 1 a (new)	**Where the ECB assesses that the condition referred to in point (a) of the first subparagraph is met in relation to an entity or group referred to in paragraph 1, it shall communicate that assessment without delay to the Commission and the Board.**
Art. 16 – para 1 a (new)	Art. 16 – para 1a (new)	1a. Without prejudice to the cases where the ECB had decided to exercise directly itself supervisory tasks for credit institutions pursuant to Article 6(5) (b) of Council Regulation (EU) No 1024/2013, in case of a communication pursuant to **paragraph 1**, or where the Board intends to take a decision under paragraph 1 on its own initiative, in relation to an entity or group referred to in **Article 6a(3)**, the Board shall communicate that assessment without delay to the ECB.
385.	Art. 16 – para 2	[...]
386.	Art. 16 – para 2 – point a	[...]
387.	Art. 16 – para 2 – point b	[...]
388.	Art. 16 – para 2 – point c	[...] **2a (new)** *The previous adoption of a measure* **pursuant** *to* **Article 16 of Regulation (EU) No 1024/2013, pursuant to Articles 23(1), 23a or 24 of Directive [BRRD], or pursuant to Article 104 of Directive 2013/36/EU** *is not a condition for taking a resolution action.*
389.	Art. 16 – para 3	3. For the purposes of point (a) of **paragraph 1**, the entity *shall be* deemed to be failing or likely to fail in *one or more* of the following circumstances:
390.	Art. 16 – para 3 – point a	(a) the entity is in breach or there are objective elements to support a determination that the institution will be in breach, in the near future, of the requirements for continuing authorisation in a way that would justify the withdrawal of the authorisation by the ECB or the national competent authority including but not limited to because the institution has incurred or is likely to incur losses that will deplete all or a significant amount of its own funds;

391.	Art. 16 – para 3 – point b	(b) the assets of the entity are or there are objective elements to support a determination that the assets of the entity will be, in the near future, less than its liabilities;
392.	Art. 16 – para 3 – point c	(c) the entity is or there are objective elements to support a determination that the entity will be in the near future unable to pay its debts *or other liabilities* as they fall due;
393.	Art. 16 – para 3 – point d	(d) extraordinary public financial support is required except when, in order to remedy a serious disturbance in the economy of a Member State and preserve financial stability, that extraordinary public financial support takes any of the following forms:
394.	Art. 16 – para 3 – point d – i	(i) a State guarantee to back liquidity facilities provided by central banks according to the central banks' conditions; *or*
395.	Art. 16 – para 3 – point d – ii	(ii) a State guarantee of newly issued liabilities; *or*
396.	Art. 16 – para 3 – point d –iii	(iii) an injection of own funds or purchase of capital instruments at prices and on terms that do not confer an advantage upon the entity, where neither the circumstances set out in points (a), (b) and (c) of **paragraph 1** nor the circumstances set out in **Article 18** are present at the time the public support is granted.
397.	Art. 16 – para 3 – subpara 2	In each of the cases mentioned in points (i), (ii) and (iii) the guarantee or equivalent measures referred to therein shall be confined to solvent entities and shall be conditional on *final* approval under State aid rules. These measures shall be of a precautionary and temporary nature and shall be proportionate to remedy the consequences of the serious disturbance and shall not be used to offset losses that the entity has incurred or is likely to incur in the near future. *Support measures under point (iii) shall be limited to injections necessary to address capital shortfall established in the national, Union or SSM-wide stress tests, asset quality reviews or equivalent exercises conducted by the ECB, EBA or national authorities, where applicable, confirmed by the competent authority.* **If the Commission submits a legislative proposal pursuant to Article 27(2) BRRD, it shall, if appropriate, submit a legislative proposal amending this Regulation in the same way.**

398.	Art. 16 – para 4	4. For the purposes of point (c) of **paragraph 1**, a resolution action shall be treated as in the public interest if it *is necessary for the achievement of,* and is proportionate to one or more of the resolution objectives as specified in Article 12 and winding up of the entity under normal insolvency proceedings would not meet those resolution objectives to the same extent.
399.	Art. 16 – para 5	5. If all the conditions established in **paragraph 1** are met, the Board shall adopt a resolution scheme. The resolution scheme shall:
400.	Art. 16 – para 5 –point a	(a) place the entity under resolution;
401.	Art. 16 – para 5 –point b	(b) determine the application of the resolution tools to the institution under resolution referred to **in** Article 19(2)**, in particular any exclusions from the application of the bail-in in accordance with article 24(5) and (14)**;
402.	Art. 16 – para 5 –point c	(c) determine the use of the Fund to support the resolution action in accordance with Article 71 and in accordance with Commission decision taken in accordance with Article 16a.
403.	Art. 16 – para 6	6. **Immediately after the adoption of the resolution scheme, the Board shall transmit it to the Commission.** **Within 24 hours after the transmission of the resolution scheme by the Board, the Commission shall either endorse the resolution scheme, or object to it with regard to the discretionary aspects of the resolution scheme in the cases not covered in subparagraph 3 of this paragraph.** **Within 12 hours from the transmission of the resolution scheme by the Board, the Commission may propose to the Council:** **a) to object to the resolution scheme on the ground that the resolution scheme adopted by the Board does not fulfil the criterion of public interest referred to in paragraph 1 c);** **b) to approve or object to a material modification of the amount of the Fund provided for in the resolution scheme of the Board.** **For the purposes of the previous subparagraph the Council shall act by simple majority.** **The resolution scheme may enter into force only if no objection has been expressed by the Council or by the Commission within a period of 24 hours after its transmission by the Board.**

		The Council or the Commission, as the case may be, shall provide reasons for the exercise of their power of objection. **Where, within 24 hours from the transmission of the resolution scheme by the Board, the Council has approved the proposal of the Commission for modification of the resolution scheme on the ground referred to in subparagraph 3 point b) or the Commission has objected in accordance with subparagraph 2, the Board shall, within 8 hours modify the resolution scheme in accordance with the reasons expressed.** **When the resolution scheme adopted by the Board provides for the exclusion of certain liabilities in the exceptional circumstances referred to in Article 24(5), and where such exclusion requires a contribution by the Fund or an alternative financing source, in order to protect the integrity of the Single Market, the Commission may prohibit or require amendments to the proposed exclusion setting out adequate reasons based on the breach of the requirements set out in Article 24 and in the delegated act adopted by the Commission on the basis of Article 38(5) of Directive [BRRD].**
404.	Art. 16 – para 6 – subpara 1 a (new)	[...]
405.	Art. 16 – para 6 – subpara 1 b (new)	[...]
406.	Art. 16 – para 7	7. Where the Council objects to the placing of an institution under resolution on the ground that the public interest criteria referred to in **paragraph 1(c)** is not fulfilled, the relevant entity shall be orderly wound up **in accordance with the applicable national law.**
407.	Art. 16 – para 8	[...]

		The Board shall ▌ ensure that the necessary resolution action is taken to carry out the resolution scheme by the relevant national resolution authorities. The resolution scheme shall be addressed to the relevant national resolution authorities and shall instruct those authorities, which shall take all necessary measures to implement it in accordance with Article 26, by exercising any of the resolution powers provided for in Directive [ ], in particular those in Articles 56 to 64 of that Directive [ ]. Where public aid is present, the Board shall act in conformity with a decision on that public aid taken by the Commission.

409.	Art. 16 – para 9	[...]
410.	Art. 16 – para 10	[...]
411.	Art. 16 – para 11	11. The Commission shall have the power to obtain from the Board any information which it deems relevant for fulfilling its tasks under this Regulation ▌. The Board shall have the power to obtain from any person, in accordance with Chapter 5 of this Title, any information necessary for it to prepare and decide upon a resolution action including updates and supplements of information provided in the resolution plans.
412.	Art. 16 – para 12	[...]
413.	Art. 16 – para 12 a (new)	[...]
414.		*Article 16a*
415.	Art. 16a (new) – title	*State and Single Resolution Fund aid*
416.	Art. 16a (new) – para 1 – subpara 1	1. Where resolution action involves the granting of State aid pursuant to Article 107(1) TFEU or of Single Resolution Fund aid according to paragraph 3 , the adoption of the resolution scheme under Article 16(5) shall not take place until such time as the Commission has adopted a positive or conditional decision concerning the compatibility of the use of public aid with the internal market.
417.	Art. 16a (new) – para 1 – subpara 2	**In carrying out the tasks conferred on them by Article 16, EU institutions shall act in conformity with the principles established in Article 3(3) of the BRRD and shall make public in an appropriate manner all relevant information on their internal organisation in this regard.**
418.	Art. 16a (new) – para 1 – subpara 3	[...]

419.	Art. 16a (new) – para 1 – subpara 4	[...]
420.	Art. 16a (new) – para 2	2. On receiving a communication pursuant to Article 16(1) or on its own initiative, if the Board considers that resolution measures could constitute State aid pursuant to Article 107(1) TFEU, it shall invite the participating Member State or Member States concerned to immediately notify the envisaged measures to the Commission under Article 108(3) TFEU. The Board shall notify the Commission of any case in which it invites one or more Member States to make a notification under Article 108(3) TFEU.
421.	Art. 16a (new) – para 3 – subpara 1	3. To the extent that the resolution action as proposed by the Board involves the use of the Fund, the Board shall notify the Commission of the proposed use of the Fund. The Board's notification shall include all necessary information in order to enable the Commission to make its assessments pursuant to this paragraph.
422.	Art. 16a (new) – para 3 – subpara 2	The notification under this paragraph shall trigger a preliminary investigation by the Commission during the course of which the Commission may request further information from the Board. The Commission shall assess whether the use of the Fund would distort or threaten to distort, competition by favouring the beneficiary entity or any other undertaking so as, insofar as it would affect trade between Member States, to be incompatible with the internal market. The Commission shall apply to the use of the Fund the criteria established for the application of State aid rules as enshrined in Article 107 of the TFEU. The Board shall provide the Commission with the information that the Commission deems necessary to carry out this assessment.
423.	Art. 16a (new) – para 3 – subpara 3	If the Commission has serious doubts as to the compatibility of the proposed use of the Fund, or where the Board has failed to provide the necessary information pursuant to a request of the Commission under the second subparagraph, the Commission shall open an in–depth investigation and shall notify the Board accordingly. The Commission shall publish its decision to open an in–depth investigation in the Official Journal. The Board, any Member State or any person, undertaking or association whose interests may be affected by the use of the Fund, may submit comments to the Commission within such timeframe as may be specified in the notification. The Board may submit observations on the comments submitted by Member States and interested third parties within such timeframe as may be specified by the Commission. At the end of the period of investigation the Commission shall make its assessment as to whether the use of the Fund would be compatible with the internal market.

424.	Art. 16a (new) – para 3 – subpara 4	In making its assessments and conducting its investigations pursuant to this paragraph, the Commission shall be guided by all relevant regulations adopted under Article 109 of the TFEU as well as relevant communications, guidance and measures adopted by the Commission in application of the rules of the Treaties relating to state aid as are in force at the time the assessment is to be made. These measures shall be applied as though references to the Member State responsible for notifying the aid were to the Board and with any other necessary modifications.
425.	Art. 16a (new) – para 3 – subpara 5	The Commission shall adopt a decision on the compatibility of the use of the Fund with the internal market which shall be addressed to the Board and to the national resolution authorities of the Member State or Member States concerned. This decision may be contingent to conditions, commitments or undertakings in respect of the beneficiary entity.
426.	Art. 16a (new) – para 3 – subpara 6	The decision may also lay down obligations on the Board, the national resolution authority in the participating Member States or Member States concerned or the beneficiary entity to enable compliance with it to be monitored. This may include requirements for the appointment of a trustee or other independent person to assist in monitoring. A trustee or other independent person may perform such functions as may be specified in the Commission decision.
427.	Art. 16a (new) – para 3 – subpara 7	Any decision pursuant to this paragraph shall be published in the Official Journal.
428.	Art. 16a (new) – para 3 – subpara 8	The Commission may issue a negative decision, addressed to the Board, where it decides that the proposed use of the Single Resolution Fund would be incompatible with the internal market and cannot be implemented in the form proposed by the Board. On receipt of such a decision the Board shall reconsider its resolution scheme and prepare a revised resolution scheme.
429.	Art. 16a (new) – para 4	4. Where the Commission has serious doubts as to whether its decision under paragraph 3 is being complied with, it shall conduct the necessary investigations. For this purpose, the Commission may exercise such powers as are available to it under the regulations and other measures referred to in the fourth subparagraph of paragraph 3, and shall be guided by them.
430.	Art. 16a (new) – para 5 – subpara 1	5. If, on the basis of the investigations carried out by the Commission, and after giving notice to the parties concerned to submit their comments, the Commission considers that the decision under paragraph 3 has not been complied with , it shall issue a decision to the national resolution authority of the Member State concerned requiring that authority to recover the misused amounts within a period of time to be determined by the Commission. The aid to be recovered pursuant to a recovery decision shall include interest at an appropriate rate fixed by the Commission and shall be paid over to the Board.

431.		The Board shall pay any amounts received under the first subparagraph into the Fund and take such amounts in consideration when determining contributions in accordance with **Articles** 66 **and 67**.
432.	Art. 16a (new) – para 5 – subpara 2	The recovery procedure referred in the previous subparagraph shall respect the rights to good administration and the right of access to documents of the beneficiary entities, as laid down in Articles 41 and 42 of the Charter of Fundamental Rights of the European Union.
433.	Art. 16a (new) – para 6	6. Without prejudice to the reporting obligations that the Commission may establish in its decision under paragraph 3, the Board shall submit to the Commission annual reports assessing the compliance of the use of the Fund with the decision under paragraph 3, for which elaboration the Board shall make use of its powers under Article 32.
434.	Art. 16a (new) – para 7	7. Any Member State or any person, undertaking or association whose interests may be affected by the use of the Fund, in particular the entities referred to in Article 2 , shall have the right to inform the Commission of any suspected misuse of the Fund incompatible with the decision under paragraph 3.
435.	Art. 16a (new) – para 8 – introductory part	8. The Commission shall be empowered to adopt delegated acts in accordance with Article 82 concerning detailed rules of procedure concerning:
436.	Art. 16a (new) – para 8 – point a	a) the calculation of the interest rate to be applied in case of a recovery decision in accordance with paragraph 5,
437.	Art. 16a (new) – para 8 – point b	b) the guarantees of the rights to good administration and the right of access to documents referred to in paragraph 5.
438.	Art. 16a (new) – para 9	9. When the Commission, following a recommendation of the Board or on its own initiative, considers that the implementation of resolution tools and actions does not respond to the criteria on the basis of which its initial decision under paragraph 3 was made, it may review such a decision and adopt the appropriate amendments.
439.	Art. 16a (new) – para 10	10. By way of derogation from paragraph 3, on application by a Member State, the Council may, acting unanimously, decide that the use of the Fund shall be considered to be compatible with the internal market, if such a decision is justified by exceptional circumstances. If, however, the Council has not made its attitude known within 7 days of the said application being made, the Commission shall give its decision on the case.

440.	Art. 16a (new) – para 11	11. Participating Member States shall ensure that their national resolution authorities have the powers necessary to ensure compliance with any conditions set out in a Commission decision pursuant to paragraph 3 and to recover misused amounts pursuant to a Commission decision under paragraph 5.
441.		*Article 17*
442.	Art. 17 title	*Valuation*
443.	Art. 17 – para 1	1. Before **deciding on** resolution action or **the** exercis**e of** the power to write down or convert capital instruments, the Board shall ensure that a fair*, prudent* and realistic valuation of the assets and liabilities of an entity referred to in Article 2 is carried out by a person independent from any public authority, including the Board, the national resolution authority, and the entity concerned.
444.	Art. 17 – para 2	2. Subject to **paragraph 14**, where all the requirements laid down in **paragraphs 1, and 4 to 9** are respected, the valuation shall be considered as definitive.
445.	Art. 17 – para 3	3. Where an independent valuation according to paragraph 1 is not possible, the Board may carry out a provisional valuation of the assets and liabilities of the entity referred to in Article 2, in accordance with the provisions of paragraph 10.
446.	Art. 17 – para 4	4. The objective of the valuation shall be to assess the value of the assets and liabilities of the entity referred to in Article 2 that *meets the condition for resolution of* **Articles 14 and 16**.
447.	Art. 17 – para 5	5. The purposes of the valuation shall be:
448.	Art. 17 – para 5 – point a	(a) to inform the determination of whether the conditions for resolution or the conditions for the write down or conversion of capital instruments are met;
449.	Art. 17 – para 5 – point b	(b) if the conditions for resolution are met, to inform the decision on the appropriate resolution action to be taken in respect of the entity referred to in Article 2;
450.	Art. 17 – para 5 – point c	(c) when the power to write down or convert capital instruments is applied, to inform the decision on the extent of the cancellation or dilution of shares or other instruments of ownership, and the extent of the write down or conversion of relevant capital instruments;
451.	Art. 17 – para 5 – point d	(d) when the bail–in tool is applied, to inform the decision on the extent of the write down or conversion of eligible liabilities;

452.	Art. 17 – para 5 – point e	(e) when the bridge institution tool or asset separation tool is applied, to ~~be~~ inform the decision on the assets, rights, liabilities or shares or other instruments of ownership to be transferred and the decision on the value of any consideration to be paid to the institution under resolution or, as the case may be, to the owners of the shares or other instruments of ownership;
453.	Art. 17 – para 5 – point f	(f) when the sale of business tool is applied, to inform the decision on the assets, rights, liabilities or shares or other instruments of ownership to be transferred and to inform the Board's understanding of what constitutes commercial terms for the purposes of Article 21(2)(b);
454.	Art. 17 – para 5 – point g	(g) in all cases, to ensure that any losses on the assets of the entity referred to in Article 2 are fully recognised at the moment the resolution tools are applied or the power to write down or convert capital instruments is exercised.
455.	Art. 17 – para 6	6. *Without prejudice to the Union State aid framework*, **w**here applicable, the valuation shall be based on prudent assumptions, including as to rates of default and severity of losses. The valuation shall not assume any *potential future provision of extraordinary public financial support, or any central bank emergency liquidity assistance, or any central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms* to the entity referred to in Article 2 from the point at which resolution action is taken or the power to write down or convert capital instruments is exercised. Furthermore, the valuation shall take account of the fact that, if any resolution tool is applied:
456.	Art. 17 – para 6 – point a	(a) the Board may recover any reasonable expenses properly incurred from the institution under resolution**, in accordance with Article 19(4b)**;
457.	Art. 17 – para 6 – point b	(b) the Fund may charge interest or fees in respect of any loans or guarantees provided to the institution under resolution, in accordance with Article 71.
458.	Art.17 – para 7	7. The valuation shall be supplemented by the following information as appearing in the accounting books and records of the entity referred to in Article 2:
459.	Art. 17 – para 7 – point a	(a) an updated balance sheet and a report on the financial position of the entity referred to in Article 2;
460.	Art. 17 – para 7 – point b	(b) an analysis and an estimate of the accounting value of the assets;

461.	Art. 17 – para 7 – point c	(c) the list of outstanding *on balance sheet and off balance sheet* liabilities shown in the books and records of the entity referred to in Article 2, with an indication of the respective credits and priority of claims referred to in Article 15;
462.	Art. 17 – para 7 – point d	[...]
463.	Art. 17 – para 8	8. Where appropriate, to *inform* the decisions referred to in points (e) and (f) of paragraph 5, the information in point (b) of paragraph 7 may be complemented by an analysis and estimate of the value of the assets and liabilities of the entity referred to in Article 2 on a market value basis.
464.	Art. 17 – para 9	9. The valuation shall indicate the subdivision of the creditors in classes in accordance with the priority of claims referred to in Article 15 and an estimate of the treatment that each class of shareholders and creditors would have been expected to receive, if the entity referred to in Article 2 were wound up under normal insolvency proceedings. *This estimate shall not affect the application of the principle referred to in* **Article 13(1)(f).**
465.	Art. 17 – para 10 – subpara 1	10. Where, due to the urgency in the circumstances of the case, either it is not possible to comply with the requirements in paragraphs 7 and 9, or where paragraph 3 applies, a provisional valuation shall be carried out. The provisional valuation shall comply with the requirements in paragraph 4 and in so far as reasonably practicable in the circumstances, with the requirements of paragraphs 1, 7 and 9.
466.	Art. 17 – para 10 – subpara 2	The provisional valuation referred to in the first subparagraph shall include a buffer for additional losses, with appropriate justification.
467.	Art. 17 – para 11 – subpara 1	11. A valuation that does not comply with all the requirements laid down in **paragraphs 1, and 4 to 9** shall be considered as provisional until an independent person has carried out a valuation that is fully compliant with all the requirements set out in **these paragraphs**. That ex post definitive valuation shall be carried out as soon as practicable. *It may be carried out either separately from the valuation referred to in* **paragraphs 16 to 18***, or simultaneously with and by the same independent person as that valuation, but shall be distinct from it.*
468.	Art. 17 – para 11 – subpara 2	The purposes of the ex post definitive valuation shall be:
469.	Art. 17 – para 11 – point a	(a) to ensure that any losses on the assets of the entity referred to in Article 2 are fully recognised in the books of accounts of that entity;

470.	Art. 17 – para 11 – point b	(b) to *inform the* decision to write back creditors' claims or to increase the value of the consideration paid, in accordance with paragraph 12.
471.	Art. 17 – para 12	12. In the event that the ex post definitive valuation's estimate of the net asset value of the entity referred to in Article 2 is higher than the provisional valuation's estimate of the net asset value of that entity, the Board may request the national resolution authority to:
472.	Art. 17 – para 12 – point a	(a) exercise its power to increase the value of the claims of creditors *or owner of relevant capital instruments* which have been written down under the bail–in tool *and then shareholders to the extent necessary*;
473.	Art. 17 – para 12 – point b	(b) instruct a bridge institution or asset management vehicle to make a further payment of consideration in respect of the assets, rights, liabilities to the entity referred to in Article 2 under resolution, or as the case may be, in respect of the shares or instruments of ownership to the owners of the shares or other instruments of ownership.
474.	Art. 17 – para 13	Notwithstanding paragraph 1, a provisional valuation conducted in accordance with paragraphs 10 and 11 shall be a valid basis for the Board to **decide on** resolution actions*, including* **instructing national resolution authorities to take** *control of a failing institution* or **on the** exercise **of** the write down or conversion power of capital instruments. **13a. The Board** *shall establish and maintain arrangements to ensure that the assessment* **for the application of the bail-in according to Article 24** *and* **the** *valuation* **referred to in paragraphs (1) to (14) of this Article** *is based on information about the assets and liabilities of the* **entity** *under resolution that is as up to date and* **complete** *as is reasonably possible.*
475.	Art. 17 – para 14	14. The valuation shall not have any legal effect and be a procedural step preparing for Board to **decide on the application of** a resolution tool or **on the** exercise **of** a resolution power. **T***he valuation shall not be subject to separate judicial review* **but only to judicial review together with the decision of the Board**.
476.	Art. 17 – para 15	[...]
477.	Art. 17 – para 16	16. *For the purposes of assessing whether shareholders and creditors would have received better treatment if the institution under resolution had entered into normal insolvency proceedings,* the Board *shall ensure that a valuation is carried out by an independent person as soon as possible after the resolution action or actions have been effected. That valuation shall be distinct from the valuation carried out under* paragraphs (1) to (14).

478.	Art. 17 – para 17	17. The valuation referred to in paragraph 16 shall determine:
479.	Art. 17 – para 17 – point a	(a) the treatment that shareholders and creditors would have received if the entity referred to in Article 2 under resolution *with respect to which the resolution action or actions have been effected,* had entered normal insolvency proceedings *at the time when the decision* **on the resolution action** *was taken;*
480.	Art. 17 – para 17 – point b	(b) the actual treatment that shareholders and creditors have received in the resolution of the entity referred to in Article 2 under resolution; *and*
481.	Art. 17 – para 17 – point c	(c) whether there is any difference between the treatment referred to in point (a) and the treatment referred to in point (b).
482.	Art. 17 – para 18	18. The valuation referred to in paragraph 16 shall:
483.	Art. 17 – para 18 – point a	(a) assume that the entity referred to in Article 2 under resolution *with respect to which the resolution action or actions have been effected,* would have entered normal insolvency proceedings *at the time when the decision* **on the resolution action** *was taken;*
484.	Art. 17 – para 18 – point b	(b) *assume that the resolution action or actions had not been effected;*
485.	Art. 17 – para 18 – point c	(c) disregard any provision of extraordinary public *financial* support to the entity referred to in Article 2 under resolution.
486.	Art. 17 – para 19 – subpara 1a (new)	[…]
487.	Art. 17 – para 19 – subpara 1b (new)	[…]
488.		*Article 18*
489.	Art. 18 title	*Write down and conversion of capital instruments*

490.	Art. 18 – para 1	1. **The Board shall exercise the write down and conversion of capital instruments acting under the procedure of Article 16,** **in relation to entities and groups referred to in Article 6a (2) and to entities and groups referred to in Article 6a (4) (ii) and (5) when the conditions for the application of these paragraphs are met, only when it assesses, in its executive session, on receiving a communication pursuant to the first subparagraph or on its own initiative, that the following conditions are met:** **(a) where the determination has been made that conditions for resolution specified in articles 14 and 16 have been met, before any resolution action is taken;**
491.	Art. 18 – para 1 – point a	**(b)** the entity will no longer be viable unless the capital instruments are written down or converted into equity; **(ba) in case of relevant capital instruments issued by a subsidiary and where these capital instruments are recognised for the purposes of meeting own funds requirements on an individual basis and on a consolidated basis, the group will no longer be viable unless those instruments are written down or converted into equity;** **(bb) in case of relevant capital instruments issued at the level of the parent undertaking and where these capital instruments are recognised for the purposes of meeting own funds requirements on an individual basis at the level of the parent undertaking or on a consolidated basis, the group will no longer unless those instruments are written down or converted into equity**
492.	Art. 18 –para 1 – point b	**(c)** extraordinary public financial support is required by the entity or group, except in any of the circumstances set out in point (d)(iii) of Article 16(3).
493.	Art. 18 – para 1 – subpara 1a (new)	**The assessment of the conditions under points b), ba) and bb) shall be made by the ECB, after consulting the Board. The Board, in its executive session, may also make such assessment.**
494.	Art. 18 – para 1a (new)	**Regarding the assessment of whether the entity or group is viable, the Board, in its executive session, may make such determination only after having previously informed the ECB about its intention and only if the ECB, within 3 calendar days after reception of such information, does not make such determination. The ECB shall provide the Board with any relevant information without delay that the latter requests in order to inform its assessment.**

495.	Art. 18 – para 1b (new)	[…]
496.	Art. 18 – para 2	2. For the purposes of paragraph 1, an entity referred to in Article 2 or a group shall be deemed to be no longer viable only if both of the following conditions are met:
497.	Art. 18 – para 2 – point a	(a) that entity or group is failing or likely to fail;
498.	Art. 18 – para 2 – point b	(b) having regard to timing and other relevant circumstances, there is no reasonable prospect that any action, including alternative private sector *measures* or supervisory action (including early intervention measures), other than the write down or conversion of capital instruments, either *independently* or in combination with resolution action, would prevent the failure of that entity or group within a reasonable timeframe.
499.	Art. 18 – para 3	3. For the purposes of point (a) of **paragraph 2**, that entity shall be deemed to be failing or likely to fail where one or more of the circumstances set out in Article 16(3) occur.
500.	Art. 18 – para 4	4. For the purposes of point (a) of paragraph 2, a group shall be deemed to be failing or likely to fail where the group is in breach or there are objective elements to support a determination that the group will be in breach, in the near future, of its consolidated prudential requirements in a way that would justify action by the competent authority including but not limited to because the group has incurred or is likely to incur losses that will deplete all or a significant amount of its own funds. *A relevant capital instrument issued by a subsidiary shall not be written down to a greater extent or converted on worse terms pursuant to* **Article 51(1)(ba) of [BRRD]** *than equally ranked capital instruments at the level of the parent undertaking which have been written down or converted.*
501.	Art. 18 – para 5	**5. If the conditions referred to in paragraph 1 are met, the Board** acting under the procedure set out in Article 16, shall determine whether the powers to write down or convert capital instruments shall be exercised singly or, following the procedure under Article 16, together with a resolution action.
502.	Art. 18 – para 6	6. Where the Board, acting under the procedure set out in Article 16, determines that the conditions referred to in paragraph 1 are met, but the conditions for resolution in accordance with Article 16(2) are not met, it shall instruct**, without delay,** the national resolution authorities to exercise the write down or conversion powers in accordance with Articles 51 and 52 of Directive [ ]. **The Board** *shall ensure* **that before national** *resolution authorities exercise the power to write down or convert capital instruments, a valuation of the assets and liabilities of the entity* **referred to in Article [**

		or group *is carried out in accordance with* **Article 17(1) to (14).** *This valuation will form the basis of the calculation of the write down to be applied to the relevant capital instruments in order to absorb losses and the level of conversion to be applied to relevant capital instruments in order to recapitalise the entity* **referred to in Article 2 or group.**
503.	Art. 18 – para 7	7. Where the conditions referred to in paragraph 1 are met, and the conditions referred to in Article 16(2) are also met, the procedure set out in Article 16(4) to (7) shall apply.
504.	Art. 18 – para 8	8. The Board shall ensure that national resolution authorities exercise the write down or conversion powers **without delay,** in *accordance with the priority of claims* **pursuant to Article 15 and in** a way that produces the following results:
505.	Art. 18 – para 8 – point a	(a) Common Equity Tier 1 *items are reduced* first in proportion to the losses and up to **their** capacity.
506.	Art. 18 – para 8 – point b	(b) the principal amount of relevant capital instruments is written down or converted into Common Equity Tier 1 instruments or both, to the extent required *to achieve the resolution objectives set out in* **Article 12** *or* up to the capacity of the relevant capital instruments*, whichever is lower*.
507.	Art. 18 – para 9	9. The national resolution authorities shall implement the instructions of the Board and exercise the write down or conversion of capital instruments in accordance with Article 26.
508.		*Article 19*
509.	Art. 19 title	*General principles of resolution tools*
510.	Art. 19 – para 1	1. Where the Board decides to apply a resolution tool to an entity referred to in Article 2, and that resolution action would result in losses being borne by creditors or their claims being converted, the Board shall **instruct the national resolution authorities to** exercise the **power to write down and convert capital instruments in accordance with** Article 18 immediately before or together with the application of the resolution tool.
511.	Art. 19 – para 2	2. The resolution tools referred to in point b) of Article 16(5) are the following:
512.	Art. 19 – para 2 – point a	(a) the sale of business tool;
513.	Art. 19 – para 2 – point b	(b) the bridge institution tool;

514.	Art. 19 – para 2 – point c	(c) the asset separation tool;
515.	Art. 19 – para 2 – point d	(d) the bail–in tool.
516.	Art. 19 – para 3	3. When adopting the **resolution scheme** referred to in Article 16(5), the Board shall consider the following factors:
517.	Art. 19 – para 3 – point a	(a) the assets and liabilities of the institution under resolution on the basis of the valuation pursuant to Article 17;
518.	Art. 19 – para 3 – point b	(b) the liquidity position of the institution under resolution;
519.	Art. 19 – para 3 – point c	(c) the marketability of the franchise value of the institution under resolution in the light of the competitive and economic conditions of the market;
520.	Art. 19 – para 2 – point d	(d) the time available.
521.	Art. 19 – para 4	4. ***The*** resolution tools **shall be applied** *to meet the resolution objectives specified in* **Article 12**, *in accordance with the resolution principles specified in* **Article 13. They** may be applied either separately or together, except for the asset separation tool which may be applied only together with another resolution tool. **4a.** *When the resolution tools referred to in point (a) or (b) of paragraph 2 are used to transfer only part of the assets, rights or liabilities of the institution under resolution, the residual entity referred to in* **Article 2** *from which the assets, rights or liabilities have been transferred, shall be wound up under normal insolvency proceedings.* **4b.** The **Board** may recover any reasonable expenses *properly incurred in connection with the use of the resolution tools or powers in one or more of the following ways:* *(a) as a deduction from any consideration paid by a recipient to the institution under resolution or, as the case may be, to the owners of shares or other instruments of ownership;*

		(b) from the institution under resolution, as a preferred creditor; or *(c) from any proceeds generated as a result of the termination of the operation of the bridge institution or the asset management vehicle, as a preferred creditor.* **Any proceeds received by national resolution authorities in connection to the use of the Fund shall be reimbursed to the Board.**
522.	Art. 19 – para 4 a – subpara 1 (new)	[…]
523.	Art. 19 – para 4 a – subpara 2 (new)	[…]
524.		*Article 20*
525.	Art. 20 title	*Resolution Scheme*
526.	Art. 20 – intro – subpara 1	The resolution scheme adopted by the Board under Article 16 shall establish, in compliance with any decision on State aid or Single Resolution Fund aid the details of the resolution tools to be applied to the institution under resolution concerning at least the measures referred to in Articles 21(2), 22(2), 23(2) and 24(1), to be implemented by the national resolution authorities in accordance with the relevant provisions of Directive [..] as transposed into national law, and determine the specific amounts and purposes for which the Fund shall be used. **The resolution scheme shall** *outline the resolution actions that should be taken by the* **Board** *in relation to the EU parent undertaking or particular group entities with the aim of meeting the resolution objectives and principles as set out in* **Articles 12 and 13.** **When adopting a resolution scheme, the Board, the Council, and the Commission, shall take into account and follow the resolution plan as referred to in Article 7 unless the Board assesses, taking into account circumstances of the case, that the resolution objectives will be achieved more effectively by taking actions which are not foreseen in the resolution plan.**
527.	Art. 20 – intro – subpara 2	In the course of the resolution process, the Board may amend and update the resolution scheme as appropriate in light of the circumstances in the case. For amendments and updates the procedure set out in Article 16 shall apply.

527a	Art. 20 – intro – subpara 3	**In addition, the resolution scheme shall provide, where appropriate, for the appointment by the national resolution authorities of a special manager for the institution under resolution pursuant to Article 29a of Directive [BRRD]. The Board may establish that the same special manager is appointed for all the entities affiliated to a group where this is necessary in order to facilitate solutions redressing the financial soundness of the entities concerned.**
528.		*Article 21*
529.	Art. 21 title	*Sale of business tool*
530.	Art. 21 – para 1	1. Within the resolution scheme, the sale of business tool shall consist of the transfer to a purchaser that is not a bridge institution of the following:
531.	Art. 21 – para 1 – point a	(a) shares or other instruments of ownership of an institution under resolution; or
532.	Art. 21 – para 1 – point b	(b) all or *any* assets, rights or liabilities of an institution under resolution.
533.	Art. 21 – para 2	2. Concerning the sale of business tool, the resolution scheme shall establish:
534.	Art. 21 – para 2 – point a	(a) the instruments, assets, rights and liabilities to be transferred by the national resolution authority in accordance with Article 32(1) and (7) to (11) of Directive [ ];
535.	Art. 21 – para 2 – point b	(b) the commercial terms, having regard to the circumstances and to the costs and expenses incurred in the resolution process, pursuant to which the national resolution authority shall make the transfer in accordance with Article 32(2) to **(4a)** of Directive [ ];
536.	Art. 21 – para 2 – point c	(c) whether the transfer powers may be exercised by the national resolution authority more than once in accordance with Article 32(5) and (6) of Directive [ ];
537.	Art. 21 – para 2 – point d	(d) the arrangements for the marketing by the national resolution authority of that entity or those instruments, assets, rights and liabilities in accordance with Article 33 (1) and (2) of Directive [ ];
538.	Art. 21 – para 2 – point e	(e) whether the compliance with the marketing requirements by the national resolution authority is likely to undermine the resolution objectives in accordance with paragraph 3.
539.	Art. 21 – para 3	3. The Board shall apply the sale of business tool without complying with the marketing requirements under point (e) of paragraph 2 when it determines that compliance with those requirements would be likely to undermine one or more of the resolution objectives and in particular where the following conditions are met:

540.	Art. 21 – para 3 – point a	(a) it considers that there is a material threat to financial stability arising from or aggravated by the failure or *likely* failure of the institution under resolution; *and*
541.	Art. 21 – para 3 – point b	(b) it considers that compliance with those requirements would be likely to undermine the effectiveness of the sale of business tool in addressing that threat or achieving the resolution objective specified in point (b) of Article 12(2).
542.		*Article 22*
543.	Art. 22 title	*Bridge institution tool*
544.	Art. 22 –para 1	1. Within the resolution scheme, the bridge institution tool shall consist of the transfer to a bridge institution of any of the following:
545.	Art. 22 –para 1 – point a	(a) shares or other instruments of ownership issued by one or more institutions under resolution;
546.	Art. 22 –para 1 – point b	(b) all or any assets, rights or liabilities of one or more institutions under resolution.
547.	Art. 22 –para 2	2. With regard to the bridge institution tool the resolution scheme shall establish:
548.	Art. 22 –para 2 – point a	(a) the instruments, assets, rights and liabilities to be transferred to a bridge institution by the national resolution authority in accordance with Article 34(1) to **(9*a*)** of Directive [ ];
549.	Art. 22 –para 2 – point b	(b) the arrangements for the setting up, the operation and the termination of the bridge institution by the national resolution authority in accordance with Article 35(1) to (3) and (5) to (8) of Directive [ ];
550.	Art. 22 –para 2 – point c	(c) the arrangements for the marketing of the bridge institution or its assets or liabilities by the national resolution authority in accordance with Article 35(4) of Directive [ ].
551.	Art. 22 –para 3	3. The Board shall make sure that the total value of liabilities transferred by the national resolution authority to the bridge institution does not exceed the total value of the rights and assets transferred from the institution under resolution or provided by other sources.
552.	Art. 22 – para 3a (new)	[…]
553.		*Article 23*
554.	Art. 23 title	*Asset separation tool*

555.	Art. 23 – para 1 – subpara 1	1. Within the resolution scheme, the asset separation tool shall consist of the transfer of assets, rights or liabilities of an institution under resolution *or a bridge institution* to *one or more* asset management vehicle**s**.
556.	Art. 23 – para 1 – subpara 2	An asset management vehicle shall be a legal entity that meets all of the following requirements:
557.	Art. 23 – para 1 – point a	(a) it is wholly or partially owned by one or more public authorities, which may include the national resolution authority *and is controlled by the resolution authority;*
558.	Art. 23 – para 1 – point b	(b) it has been created for the purpose of receiving some or all of the assets, rights and liabilities of one or more institutions under resolution or a bridge institution.
559.	Art. 23 – para 1 – point c (new)	[…]
560.	Art. 23 – para 2	2. Concerning the asset separation tool the resolution scheme shall establish:
561.	Art. 23 – para 2 – point a	(a) the ~~instruments,~~ assets, rights and liabilities to be transferred by the national resolution authority to an asset management vehicle in accordance with Article 36(1) to (4) and (**5b**) to (10) of Directive [ ];
562.	Art. 23 – para 2 – point b	(b) the consideration for which the assets, *rights and liabilities* shall be transferred by the national resolution authority to the asset management vehicle, in accordance with the principles established in Article **17 and with article 36(5a) BRRD** *and in accordance with the Union State aid framework*. This provision does not prevent the consideration having nominal or negative value.
563.	Art. 23 – para 2a (new)	***deleted***
564.		*Article 24*
565.	Article 24 title	*Bail–in tool*
566.	Art. 24 – para 1 – subpara 1	1. The bail–in tool may be applied for *any* of the following purposes:
567.	Art. 24 – para 1 – subpara 1 – point a	(a) to recapitalise an entity referred to in Article 2 that meets the conditions for resolution to the extent sufficient to restore its ability to comply with the conditions for authorisation *(to the extent that these conditions apply to the entity)* and to carry on the activities for which **it** is authorised under Directive **2013/36/EU** or Directive 2004/39/EC *(where the entity is authorised under these Directives) and to sustain sufficient market confidence in the institution or entity*;

568.	Art. 24 – para 1 – subpara 1 – point b	(b) to convert to equity or reduce the principal amount of claims or debt instruments that are transferred:
569.	Art. 24 – para 1 – subpara 1 – point b – point i (new)	i) to a bridge institution with a view to providing capital for that bridge institution*; or*
570.	Art. 24 – para 1 – subpara 1 – point b – point ii (new)	*ii) under the sale of business tool or the asset separation tool.*
571.	Art. 24 – para 1 – subpara 2	Within the resolution scheme, concerning the bail–in tool, the following shall be established:
572.	Art. 24 – para 1 – subpara 2 – point a	(a) the aggregate amount by which eligible liabilities must be reduced or converted, in accordance with paragraph 6;
573.	Art. 24 – para 1 – subpara 2 – point b	(b) the liabilities that may be excluded in accordance with paragraphs 5 to **14**;
574.	Art. 24 – para 1 – subpara 2 – point c	(c) the objectives and minimum content of the business reorganisation plan to be submitted in accordance with paragraph 16.
575.	Art. 24 – para 2 – subpara 1	2. The bail–in tool may be applied for the purpose referred to in point (a) of paragraph 1 only if there is a *reasonable* prospect that the application of that tool, *together with other relevant measures including* measures implemented in accordance with the business reorganisation plan required by paragraph 16 will, in addition to achieving relevant resolution objectives, restore the *entity* in question to financial soundness *and long–term viability*.
576.	Art. 24 – para 2 – subpara 2	If the condition set out in the first subparagraph is not fulfilled, any of the resolution tools referred to in points (a), (b) and (c) of paragraph 2 of Article 19, and the bail–in tool referred to in point (d) of paragraph 2 of Article 19, shall apply, as appropriate.
577.	Art. 24 – para 3	3. The following liabilities, *whether they are governed by the law of a Member State or of a third country,* shall not be subject to write down *or* conversion:

578.	Art. 24 – para 3 – point a	(a) covered deposits;
579.	Art. 24 – para 3 – point b	b) secured liabilities including covered bonds *and liabilities in the form of financial instruments used for hedging purposes which form an integral part of the cover pool and which according to national law are secured in a way similar to covered bonds;*
580.	Art. 24 – para 3 – point c	c) any liability that arises by virtue of the holding by the institution or entity referred of Article 2 of client assets or client money, *including client assets or client money held on behalf of UCITS as defined in Article 1(2) of Directive 2009/65/EC or of AIFs as defined in Article 4(1)(a) of Directive 2011/61/EC of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers,* provided that such client is protected under the applicable insolvency law*;* **(ca)** *any liability that arises by virtue of a fiduciary relationship between the entity referred to* **Article 2** *(as fiduciary) and another person (as beneficiary), provided that such beneficiary is protected under the applicable insolvency or civil law;*
581.	Art. 24 – para 3 – point d	(d) liabilities to institutions, excluding entities that are part of the same group, with an original maturity of less than seven days;
582.	Art. 24 – para 3 – point e	(e) liabilities *with a remaining maturity of less than seven days, owed to* systems *or operators of systems* designated according to Directive 98/26/EC[10] *or their participants and arising from the participation in such a system*;
583.	Art. 24 – para 3 – point f	(f) a liability to any one of the following:
584.	Art. 24 – para 3 – point f – i	(i) an employee, in relation to accrued salary, pension benefits or other fixed remuneration, except for the variable component of remuneration that is not regulated by *a* collective bargaining agreement *and except for the variable component of the remuneration of material risk takers as identified in Article 92(2) of Directive 2013/36/EU*;
585.	Art. 24 – para 3 – point f – ii	(ii) a commercial or trade creditor arising from the provision to the institution or entity referred to in **Article 2** of goods or services that are critical to the daily functioning of its operations, including IT services, utilities and the rental, servicing and upkeep of premises;

[10] Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems. OJ L 166, 11.6.1998, p. 45.

586.	Art. 24 – para 3 – point f – iii	(iii) tax and social security authorities, provided that those liabilities are preferred under the applicable law; *(iiia) Deposit Guarantee Schemes arising from contributions due in accordance with DGSD.*
587.	Art. 24 – para 4	4. The scope of the bail in tool set out in paragraph 3 shall not prevent, where appropriate, the exercise of the bail–powers to any part of a secured liability or a liability for which collateral has been pledged that exceeds the value of the assets, pledge, lien or collateral against which it is secured *or to any amount of a deposit that exceeds the coverage level provided for in Article 7 of Directive 94/19/EC.* **The Board** *shall ensure that all secured assets related to a covered bond cover pool remain unaffected, segregated and with enough funding.* *Without prejudice to the large exposure rules in CRD/CRR,* **and** *in order to provide for the resolvability of* **entities** *and groups,* **the Board shall** *limit, in accordance with* **Article 8(9)(b),** *the extent to which other institutions hold liabilities eligible for bail-in as defined in* **Article 3(18) of this Regulation**, *except liabilities held at entities that are part of the same group.*
588.	Art. 24 – para 5 – subpara 1	5. In exceptional circumstances, certain liabilities may be excluded or partially excluded from the application of the write–down and conversion powers *where*:
589.	Art. 24 – para 5 – subpara 1 – point a	(a) it is not possible to bail–in that liability within a reasonable time notwithstanding the good faith efforts of the relevant resolution authority; or
590.	Art. 24 – para 5 – subpara 1 – point b	(b) the exclusion is strictly necessary and is proportionate to achieve the continuity of critical functions and core business lines in a manner that maintains the ability of the institution under resolution to continue key operations, services and transactions; or
591.	Art. 24 – para 5 – subpara 1 – point c	(c) the exclusion is strictly necessary and proportionate to avoid giving rise to widespread contagion, *in particular as regards eligible deposits held by natural persons and micro, small and medium sized enterprises, which* would severely disrupt the functioning of financial markets, *including of financial market infrastructures,* in a manner that could cause a serious disturbance to the economy of a Member State or of the Union; or

592.	Art. 24 – para 5 – subpara 1 – point d	(d) the application of the bail–in tool to these liabilities would cause a destruction in value such that the losses borne by other creditors would be higher than if these liabilities were excluded from bail–in.
593.	Art. 24 – para 5 – subpara 2	Where an eligible liability or class of eligible liabilities is excluded, or partially excluded, *under this paragraph*, the level of write down or conversion applied to other eligible liabilities may be increased to take account of such exclusions, provided that the level of write down and conversion applied to other eligible liabilities respects the principle laid down in point (f) of Article 13(1).
594.	Art. 24 – para 5 – subpara 2a (new)	[...]
595.	Art. 24 – para 6	6. Where an eligible liability or class of eligible liabilities ***is*** excluded or partially excluded, pursuant to paragraph 5, and the losses that would have been borne by these liabilities have not been passed on fully to other creditors, a contribution from the Fund may be made to the institution under resolution to:
596.	Art. 24 – para 6 – point a	(a) cover any losses which have not been absorbed by eligible liabilities and restore the net asset value of the institution under resolution to zero in accordance with point (a) of **paragraph 13**; *and/or*
597.	Art. 24 – para 6 – point b	(b) purchase shares or other instruments of ownership or capital instruments in the institution under resolution, in order to recapitalise the institution in accordance with point (b) of **paragraph 13**.
598.	Art. 24 – para 7	7. The Fund may only make a contribution referred to in paragraph 6 provided *that*:
599.	Art. 24 – para 7 – point a	(a) a contribution to loss absorption and recapitalisation equal to an amount not less than 8% of the total liabilities including own funds of the institution under resolution, measured at the time of resolution action in accordance with the valuation provided for in **Article 17(1) to (14)**, has been made by shareholders and the holders of other instruments of ownership, the holders of relevant capital instruments and other eligible liabilities through write down, conversion or otherwise; *and*
600.	Art. 24 – para 7 – point b	(b) the contribution from the Fund does not exceed 5% of the total liabilities including own funds of the institution under resolution, measured at the time of resolution action in accordance with the valuation provided for in **Article 17(1) to (14)**.
601.	Art. 24 – para 8	8. The contribution of the Fund may be financed by:

602.	Art. 24 – para 8 – point a	(a) the amount available to the Fund which has been raised through contributions by entities referred to in Article 2 in accordance with **rules established in BRRD and in Articles 64(3a),** 66 **and 67 of this Regulation.**
603.	Art. 24 – para 8 – point b	[…]
604.	Art. 24 – para 8 – point c	(c) where the amounts referred to in point (a) are insufficient, amounts raised from alternative financing sources in accordance with **Articles** 69 **and 69a**.
605.	Art. 24 – para 9	9. In extraordinary circumstances, further funding may be sought from alternative financing sources after:
606.	Art. 24 – para 9 – point a	(a) the 5% limit specified in point (b) of paragraph 7 has been reached; and
607.	Art. 24 – para 9 – point b	(b) all unsecured, non–preferred liabilities, other than eligible deposits, have been written down or converted in full.
608.	Art. 24 – para 10	10. As an alternative or in addition, when the conditions in points (a) and (b) of **paragraph 9** are met, a contribution may be made from resources which have been raised through ex–ante contributions in accordance with Article 66 and which have not yet been used.
609.	Art. 24 – para 11	11. For the purposes of this Regulation, subparagraph 5 of Article 38 (3cab) of Directive [ ] shall not apply.
610.	Art. 24 – para 12	12. When taking the decision referred to in paragraph 5, due consideration shall be given to the following factors:
611.	Art. 24 – para 12 – point a	(a) the principle that losses should be borne first by shareholders and next, in general, by creditors of the institution under resolution in order of preference;
612.	Art. 24 – para 12 – point b	(b) the level of loss absorbing capacity that would remain in the institution under resolution if the liability or class of liabilities were excluded; *and*
613.	Art. 24 – para 12 – point c	(c) the need to maintain adequate resources for resolution financing.
614.	Art. 24 – para 13 – subpara 1	13. The Board shall make its assessment of the following points on the basis of a valuation that complies with the requirements of **Article 17(1) to (14)**:

615.	Art. 24 – para 13 – subpara 1 – point a	(a) the aggregate amount by which eligible liabilities must be written down in order to ensure that the net asset value of the institution under resolution is equal to zero; *and*
616.	Art. 24 – para 13 – subpara 1 – point b	(b) where relevant, the aggregate amount by which eligible liabilities must be converted into shares *or other types of capital instruments* in order to restore the Common Equity Tier 1 capital ratio of either the institution under resolution or the bridge institution.
617.	Art. 24 – para 13 – subpara 2	The assessment referred to in **the first subparagraph** shall establish the amount by which eligible liabilities need to be *written down or* converted in order to restore the Common Equity Tier 1 capital ratio of the **entity** under resolution, or where applicable *establish the ratio of* the bridge institution taking into account any contribution of capital by the **F**und pursuant to point (d) of Article 71(1) and to sustain sufficient market confidence in the **entity** under resolution or the bridge institution and enable it to continue to comply *over a horizon of at least one year* with the conditions for authorisation and to carry on the activities for which it is authorised under Directive 2013/36/EC or Directive 2004/39/EC. *Where the* **Board** *intend***s** *to use the asset separation tool referred to in* **Article 23**, *the amount by which eligible liabilities need to be reduced shall take into account a prudent estimate of the capital needs of the asset management vehicle as appropriate.*
618.	Art. 24 – para 14	14. Exclusions under paragraph 5 may be applied either to completely exclude a liability from write down or to limit the extent of the write down applied to that liability.
619.	Art. 24 – para 15	15. The write down and conversion powers shall respect the requirements on the priority of claims set out in Article 15.
620.	Art. 24 – para 16 – subpara 1	16. The national resolution authority shall immediately forward to the Board the business reorganisation plan received **in accordance with Article 47(1), (1-a) and (1a) of Directive [ ]** from the *management body or the person or persons appointed in accordance with article 64(1) of Directive []*.
621.	Art. 24 – para 16 – subpara 2	Within 2 weeks from the date of submission of the business reorganisation plan, the **relevant national** resolution authority shall provide the Board with its assessment of the plan. Within 1 month from the date of submission of the business reorganisation plan the Board shall assess the likelihood that the plan, if implemented, *will restore* the long term viability of the entity referred to Article 2. The assessment shall be completed in agreement with the national competent authority or the ECB, where relevant.

622.	Art. 24 – para 16 – subpara 3	Where the Board is satisfied that the plan would achieve that objective, it shall allow the national resolution authority to approve the plan in accordance with Article 47(5) of Directive [ ]. Where the Board is not satisfied that the plan would achieve that objective, it shall instruct the national resolution authority to notify the *management body or the person or persons appointed in accordance with Article 64(1)* **of Directive []** of its concerns and require the **amendment of** the plan in **a** way that addresses those concerns in accordance with Article 47(6) of Directive [ ]. **In both cases t**his shall be done in agreement with the national competent authority or the ECB, where relevant.
623.	Art. 24 – para 16 – subpara 4	*Within two weeks from the date of receipt of such a notification, the management body or the person or persons appointed in accordance with Article 64(1) shall submit an amended plan to the resolution authority for approval.* The national resolution authority shall forward to the Board the amended plan **and their assessment of such plan**. The Board *shall assess the amended plan, and* shall instruct the national resolution authority to notify the *management body or the person or persons appointed in accordance with Article 64(1)* within one week whether it is satisfied that the plan, as amended, addresses the concerns notified or whether further amendment is required. **The Board** *shall communicate* **the group business reorganisation** *plan to the EBA.*
624.		*Article 25*
625.	Article 25 title	*Monitoring by the Board*
626.	Art. 25 – para 1 – subpara 1	1. The Board shall closely monitor the execution of the resolution scheme by the national resolution authorities. For that purpose, the national resolution authorities shall:
627.	Art. 25 – para 1 – subpara 1 – point a	(a) cooperate with and assist the Board in the performance of its monitoring duty;
628.	Art. 25 – para 1 – subpara 1 – point b	(b) provide, at regular intervals established by the Board, accurate, reliable and complete information on the execution of the resolution scheme, the application of the resolution tools and the exercise of the resolution powers, that might be requested by the Board, including on the following:
629.	Art. 25 – para 1 – subpara 1 – point b – i	(i) the operation and financial situation of the institution under resolution, the bridge institution and the asset management vehicle;

630.	Art. 25 – para 1 – subpara 1 – point b – ii	(ii) the treatment that shareholders and creditors would have received in the liquidation of the institution under normal insolvency proceedings;
631.	Art. 25 – para 1 – subpara 1 – point b – iii	(iii) any on–going court proceedings related to the liquidation of the assets of failed institution, to challenges to the resolution decision and to the valuation or related to applications for compensation filed by the shareholders or creditors;
632.	Art. 25 – para 1 – subpara 1 – point b – iv	(iv) the appointment, removal or replacement of evaluators, administrators, accountants, lawyers and other professionals that may be necessary to assist the national resolution authority, and on the performance of their duties;
633.	Art. 25 – para 1 – subpara 1 – point b – v	(v) any other matter that is relevant for the execution of the resolution scheme **including any potential breach of the safeguards provided for in the BRRD that** may be referred to by the Board;
634.	Art. 25 – para 1 – subpara 1 – point b – vi	(vi) the extent to which and manner in which the powers for the national resolution authorities listed in Chapter V on Resolution Powers of Directive [ ] are exercised by them;
635.	Art. 25 – para 1 – subpara 1 – point b – vii	(vii) the economic viability, feasibility, and implementation of the business reorganisation plan provided for in Article 24(16).
636.	Art. 25 – para 1 – subpara 2	The national resolution authorities shall submit to the Board a final report on the execution of the resolution scheme.
637.	Art. 25 – para 2	2. On the basis of the information provided, the Board may give instructions to the national resolution authorities as to any aspect of the execution of the resolution scheme, and in particular the elements referred to in Article 20 and to the exercise of the resolution powers.
638.	Art. 25 – para 3	3. Where this is necessary in order to achieve the resolution objectives, the resolution scheme may be amended. The procedure set out in Article 16 shall apply.
639.		*Article 26*
640.	Article 26 title	*Implementation of decisions under this Regulation*
641.	Art. 26 – para 1 – subpara 1	1. National resolution authorities shall take the necessary action to implement decisions referred to in this Regulation, in particular by exercising control over the entities **and groups referred to in Article 6a(2), and the entities and groups referred to in Article 6a(4)(ii) and (5) when the conditions for the applications of theses paragraphs are met**, by taking the necessary measures in accordance with **Articles 29a or** 64 of Directive [ ] and by ensuring that the safeguards provided for in that Directive [ ] are complied with. National resolution authorities shall

		implement all decisions addressed to them by the Board.
642.	Art. 26 – para 1 – subpara 2	For these purposes, ***subject to this Regulation,*** they shall make use of their powers under national law transposing the Directive [*BRRD*] and in accordance with the conditions set out in national law. National resolution authorities shall fully inform the Board about the exercise of these powers. Any action they take shall comply with the **Board's decisions by virtue of this Regulation**. **When implementing these decisions, they shall ensure that the applicable safeguards provided for in Directive [BRRD] are complied with**
643.	Art. 26 – para 2	2. Where a national resolution authority has not applied **or has not complied with** a decision **by the Board by virtue of this Regulation** or has applied it in a way which **poses a threat to any of the resolution objectives under Article 12 or to the efficient implementation of the resolution scheme, the Board may order an entity under resolution:**
644.	Art. 26 – para 2 – point a	(a) in case of action pursuant to Article 16, to transfer to another person specified rights, assets or liabilities of an institution under resolution;
645.	Art. 26 – para 2 – point b	(b) in case of action pursuant to Article 16, to require the conversion of ***any*** debt instruments which contain a contractual term for conversion in the circumstances provided for in Article 18;
646.	Art. 26 – para 2 – point c (new)	**(c) to adopt any other necessary action to comply with the decision in question.** **The Board shall adopt a decision referred to in point (c) only if the measure significantly addresses the threat to the relevant resolution objective or to the efficient implementation of the resolution scheme.** **Before deciding to impose any measure the Board shall notify the national resolution authorities concerned and the Commission of the measure it intends to take. That notification shall include details of the envisaged measures, the reasons for those measures and details of when the measures are intended to take effect.** **The notification shall be made not less than 24 hours before the measures are to take effect. In exceptional circumstances where it is not possible to give 24 hours' notice, the Board may make the notification less than 24 hours before the measures are intended to take effect.**
647.	Art. 26 – para 2a (new)	[...]
648.	Art. 26 – para 3	3. The institution under resolution shall comply with any decision taken referred to in paragraph 2. Those decisions shall prevail over any previous

		decision adopted by the national resolution authorities on the same matter.
649.	Art. 26 – para 4	4. When taking action in relation to issues which are subject to a decision taken pursuant to paragraph 2, national resolution authorities shall comply with that decision. **4a. The Board shall publish on its official website either a copy of the resolution scheme or a notice summarising the effects of the resolution action, and in particular the effects on retail customers. The national resolution authorities shall comply with the applicable procedural obligations provided for in Article 75 of the Directive [BRRD].**
650.		Chapter 4
651.		*Cooperation*
652.		*Article 27*
653.	Article 27 title	*Obligation to cooperate* **and information exchange within the SRM**
654.	Art. 27 – para 1	1. The Board shall inform the Commission of any action it takes in order to prepare for resolution. With regard to any information received from the Board, the members of the Council, the Commission as well as the Council and the Commission staff shall be subject to the professional secrecy requirement laid down in Article 79.
655.	Art. 27 – para 2	2. In the exercise of their respective responsibilities under this Regulation, the Board, **the Council**, the Commission, the ECB and the national resolution **authorities** and **national** competent authorities shall cooperate closely***, in particular in the resolution planning, early intervention and resolution phases pursuant to Articles 7 to 26***. ***They*** shall provide ***each other*** with all information necessary for the exercise of their tasks. **2a. The ECB or the national** *competent authorities shall transmit to* **the Board and the national** *resolution authorities the group financial support agreements authorised and any changes thereto.*
656.	Art. 27 – para 3	[…]
657.	Art. 27 – para 4	4. For the purposes of this Regulation, the ECB **may** invite ***the Chair*** of the Board to participate ***as an observer*** in the Supervisory Board of the ECB established in accordance with Article 19 of *Regulation (EU) No 1024/2013*. **Where deemed appropriate** the Board ***may*** appoint ***another*** representative ***to participate***.
658.	Art. 27 – para 5	5. For the purposes of this Regulation, the Board shall appoint a representative which shall participate in the Resolution Committee of the European Banking Authority established in accordance with Article 113 of Directive [*BRRD*].
659.	Art. 27 – para 6	6. The Board shall **endeavour to** co–operate closely with any public financial assistance facility including the European Financial Stability

		Facility (EFSF) and the European Stability Mechanism (ESM), in particular in the extraordinary circumstances referred to in Article 24(9) and where such a facility has granted or is likely to grant, direct or indirect financial assistance to entities established in a participating Member State.
660.	Art. 27 – para 7	7. Where necessary the Board shall conclude a memorandum of understanding with the ECB and the national resolution and competent authorities describing **in** general terms how they will cooperate under paragraphs 2 **and** 4 in the performance of their respective tasks under Union law. The memorandum shall be reviewed on a regular basis and shall be published subject to appropriate treatment of confidential information.
661.	Art. 27 – para 7 a – subpara 1a (new)	[…]
662.	Art. 27 – para 7 a – subpara 1b (new)	[…]
663.	Art. 27 – para 7 a – subpara 1c (new)	[…]
664.		[…]
665.	Article 28 title	[…]
666.	Art. 28 – para 1	[…]
667.	Art. 28 – para 2	[…]
668.		*Article 29*
669.	Art. 29 – title	*Cooperation within the SRM*
670.	Art. 29 – para 1 (new) – subpara 1	1. The Board shall carry out its tasks in close cooperation with national resolution authorities. The Board shall, in cooperation with national resolution authorities, **approve** and make public a framework to organise the practical arrangements for the implementation of this Article.
671.	Art. 29 – para 1 (new) – subpara 2 – introductory part	In order to ensure effective and consistent application of this Article,
672.	Art. 29 – para 1 (new) – subpara 2 – point i	i) the Board shall issue guidelines and general instructions to national resolution authorities according to which the tasks are performed and resolution decisions are adopted by national resolution authorities.

673.	Art. 29 – para 1 (new) – subpara 2 – point ii	ii) the Board may at any time make use of the powers referred to in Articles 32 to 35;
674.	Art. 29 – para 1 (new) – subpara 2 – point iii	iii) the Board may also request, on an ad hoc or continuous basis, information from national resolution authorities on the performance of the tasks carried out by them under **Article 6a**;
675.	Art. 29 – para 1 (new) – subpara 2 – point iv	iv) the Board shall receive from national resolution authorities draft decisions on which it may express its views**, and, in particular indicate the elements of the draft decision that do not comply with this Regulation or the Board's general instructions**.
675 a.		For the purposes of evaluating resolution plans, the Board may request national resolution authorities to forward to the Board all information necessary, as obtained by them in accordance with Articles 10 and 12(1) of Directive [ ], without prejudice to Chapter 5 of this Title.
676.	Art. 29 – para 1a (new)	[…]
677.	Art. 29 – para 1a (new) – point a	[…]
678.	Art. 29 – para 1a (new) – point b	[…]
679.	Art. 29 – para 1a (new) – point c	[…]
680.	Art. 29 – para 1a (new) – point d	[…]
681.	Art. 29 – para 1a (new) – point e	[…]
682.	Art. 29 – para 1a (new) – point f	[…]
683.	Art. 29 – para 2 (new)	[…]
684.	Art. 29 – para 2a (new)	[…]

685.	Art. 29 – para 2b (new)	[…]
685 b.		[…]
686.	Art. 29 – para 1	3. Paragraphs 4 to **4h** of Article 12 and Articles 80 to **83a** of Directive [BRRD] shall not apply to relations between national resolution authorities. The joint decision and any decision taken in the absence of a joint decision as referred to in paragraph 4b to 4f of Article 39 of Directive [BRRD] shall not apply**. The** relevant provisions of this Regulation shall apply instead.
687.		*Article 30*
688.	Art. 30 title	*Consultation and cooperation with non–participating Member States* **and third countries**
689.	Art. 30 – para 1	Where a group includes entities established in participating Member States as well as in non–participating Member States **or third countries**, without prejudice to any approval by the Council or the Commission required under this Regulation, the Board shall represent the national resolution authorities of the participating Member States for the purposes of consultation and cooperation with non–participating Member States **or third countries** in accordance with Articles 7, 8, 11, 12, 15, 50, and 80 to **83a** of Directive [***BRRD***]. **Where a group includes entities established in participating Member States as well as significant branches or subsidiaries located in non-participating Member States, the Board shall communicate any group relevant plans, decisions or measures referred to in Articles 7, 8, 9, 10, and 11, to the competent authorities and/or the resolution authorities of the non-participating Member State, as appropriate.**
690.	Art. 30 – para 1a (new)	**1a.** The Board, the ECB and the resolution authorities and competent authorities of the non–participating Member States shall conclude ***memoranda*** of understanding describing in general terms how they will cooperate with one another in the performance of their tasks under Directive ***[BRRD].*** ***Without prejudice to the first subparagraph the Board shall conclude a memorandum of understanding with the resolution authority of each non–participating Member State that is home to at least one global systemically important institution, identified as such pursuant to Article 131 of Directive 2013/36/EU.***
691.	Art. 30 – para 1b (new)	**1b.** ***Each memorandum shall be reviewed on a regular basis and shall be published subject to appropriate treatment of confidential information.*** **1c. The Board shall conclude, on behalf of the national resolution authorities of participating Member States, non–binding cooperation**

		arrangements in line with the EBA framework cooperation arrangements referred to in Article 88 (2) of Directive [BRRD]. The Board shall notify the EBA of any such cooperation arrangement.
692.		*Article 31*
693.	Article 31 title	**Recognition and enforcement of third country resolution proceedings**
694.		**1. The provisions of this Article shall apply in respect of third country resolution proceedings unless and until an international agreement provided for in Article 84(1) of Directive [BRRD] enters into force with the relevant third country. They shall also apply following entry into force of an international agreement provided for in Article 84(1) of that Directive with the relevant third country to the extent that recognition and enforcement of third country resolution proceedings is not governed by that agreement.** **2. The Board shall assess and issue a recommendation addressed to the national resolution authorities on the recognition and enforcement of resolution proceedings conducted by third country resolution authorities in relation to a third country institution or a third country parent undertaking that:** **(a) has one or more subsidiaries established in one or more participating Member States; or** **(b) has otherwise assets, rights or liabilities located in one or more participating Member States, or governed by the national law of a participating Member State.** **The Board shall conduct its assessment in consultation with the national resolution authorities and, where a European resolution college is established, with the resolution authorities of non-participating Member States,** **The assessment shall give due consideration to the interests of each individual participating Member State where the subsidiary of the third country institution or parent undertaking operates, and in particular to the potential impact of the recognition and enforcement of the third country resolution proceedings on the other parts of the group and the financial stability in those Member States.** **3. The Board shall recommend to refuse the recognition of the resolution proceedings referred to in paragraph 1, if it considers:** **(a) that the third-country resolution proceedings would have an**

		adverse effect on financial stability in a partcipating Member State; or **(b) that creditors, including in particular depositors located or payable in a particpating Member State, would not receive the same treatment as third-country creditors and depositors with similar legal rights under the third-country home resolution proceedings; or** **(c) that recognition or enforcement of the third-country resolution proceedings would have material fiscal implications for the participating Member State; or** **(d) that the effects of such recognition or enforcement would be contrary to the national law of the participating Member State.** **4. National resolution authorites shall implement the recommendation of the Board and ask for the enforcement of the recognized resolution proceedings in their respective territories, or shall explain in a reasoned statement to the Board why they cannot implement the reccomandation of the Board.** **5. When exercising resolution powers in relation to third country entities, national resolution authorities shall, where relevant, use the powers conferred on them on the basis of the provisions referred to in Article 85(4) of [BRRD].**
695.		Chapter 5
696.		*Investigatory powers*
697.		*Article 32*
698.	Article 32 title	*Requests for information*
699.	Art. 32 – para 1	1. For the purpose of exercising **its** tasks **under** ***this Regulation***, the Board may, through the national resolution authorities **or** directly, **after informing them,** ***making full use of all information available to the ECB or to the national competent authorities,*** require the following legal or natural persons to provide all information that is necessary in order to carry out the tasks conferred upon it by this Regulation:
700.	Art. 32 – para 1 – point a	(a) the entities referred to in Article 2;
701.	Art. 32 – para 1 – point b	(b) employees of the entities referred to in Article 2;
702.	Art. 32 – para 1 – point c	(c) third parties to whom the entities referred to in Article 2 have outsourced functions or activities.

703.	Art. 32 – para 2	2. The entities ▌and ▌persons referred to in ▌paragraph 1 shall supply the information requested pursuant to paragraph 1. Professional secrecy provisions shall not exempt those entities and persons from the duty to supply that information. The supply of the information requested shall not be deemed to be a breach of professional secrecy.
704.	Art. 32 – para 3	3. Where the Board obtains information directly from those entities and persons, it shall make that information available to the national resolution authorities concerned.
705.	Art. 32 – para 4	4. The Board shall be able to obtain**, including** on a continuous basis**,** any information ***necessary for the exercise of its functions under this Regulation, in particular*** on capital, liquidity, assets and liabilities concerning any institution subject to its resolution powers ▌.
706.	Art. 32 – para 5	5. The Board, the ECB, the national competent authorities and the national resolution authorities may draw up memoranda of understanding with a procedure concerning the exchange of information. ***The exchange of information between the Board,*** **the ECB, the national** ***competent authorities and*** **the** ***national resolution authorities shall not be deemed to be a breach of professional secrecy.***
707.	Art. 32 – para 6	6. National competent authorities, the ECB where relevant, and national resolution authorities shall cooperate with the Board in order to verify whether some or all of the information requested is already available. Where such information is available, national competent authorities, the ECB where relevant, or national resolution authorities shall provide that information to the Board.
708.		*Article 33*
709.	Article 33 title	*General investigations*
710.	Art. 33 – para 1 – subpara 1	1. For the purpose of exercising **its** tasks **under** ***this Regulation***, and subject to any other conditions set out in relevant Union law, the Board may **through the national resolution authorities or directly, after informing them,** conduct all necessary investigations of any person referred to in Article 32(1) established or located in a participating Member State.
711.	Art. 33 – para 1 – subpara 2	To that end, the Board shall have the right to:
712.	Art. 33 – para 1 – subpara 2 – point a	(a) require the submission of documents;
713.	Art. 33 – para 1 – subpara 2 – point b	(b) examine the books and records of the persons referred to in Article 32(1) and take copies or extracts from such books and records;
714.	Art. 33 – para 1 – subpara 2 –	(c) obtain written or oral explanations from any person referred to in Article 32(1) or their representatives or staff;

	point c	
715.	Art. 33 – para 1 – subpara 2 – point d	(d) interview any other person who consents to be interviewed for the purpose of collecting information relating to the subject matter of an investigation;
716.	Art. 33 – para 2 – subpara 1	2. The persons referred to in Article 32(1) shall be subject to investigations launched on the basis of a decision of the Board.
717.	Art. 33 – para 2 – subpara 2	When a person obstructs the conduct of the investigation, the national resolution authorities of the participating Member State where the relevant premises are located shall afford, in compliance with national law, the necessary assistance including facilitating the access by the Board to the business premises of the legal persons referred to in Article 32(1), so that the aforementioned rights can be exercised.
718.		*Article 34*
719.	Article 34 titile	*On–site inspections*
720.	Art. 34 – para 1	1. For the purpose of exercising **its** tasks **under** ***this Regulation***, and subject to other conditions set out in relevant Union law, the Board may, in accordance with Article 35 and subject to prior notification to the national resolution authorities ***and the*** **relevant** ***competent authorities*** concerned, and, where appropriate, in cooperation with them, conduct all necessary on–site inspections at the business premises of the legal persons referred to in Article 32(1). Where the proper conduct and efficiency of the inspection so require, the Board may carry out the on–site inspection without prior announcement to those legal persons.
721.	Art. 34 – para 2	2. The officials of and other persons authorised by the Board to conduct an on–site inspection may enter any business premises and land of the legal persons subject to an investigation decision adopted by the Board pursuant to ***Article 33(2)*** and shall have all the powers stipulated in ***Article 33(1)***.
722.	Art. 34 – para 3	3. The legal persons referred to in Article 32(1) shall be subject to on–site inspections on the basis of a decision of the Board.
723.	Art. 34 – para 4	4. Officials and other accompanying persons authorised or appointed by the national resolution authorities of the Member States where the inspection is to be conducted shall**,** under the supervision and coordination of the Board, actively assist the officials of and other persons authorised by the Board. To that end, they shall enjoy the powers set out in paragraph 2. Officials of the national resolution authorities of the participating Member States concerned shall also have the right to participate in the on–site inspections.
724.	Art. 34 – para 5	5. Where the officials of and other accompanying persons authorised or appointed by the Board find that a person opposes an inspection ordered pursuant to paragraph 1, the national resolution authorities of the participating Member States concerned shall afford them the necessary assistance in accordance with national law. To the extent necessary for the inspection, this assistance shall include the sealing of any business premises and books or records. Where that power is not available to the

		national resolution authorities concerned, it shall use its powers to request the necessary assistance of other ▌national ▌authorities.
725.		*Article 35*
726.	Article 35 title	*Authorization by a judicial authority*
727.	Art. 35 – para 1	1. If an on–site inspection provided for in Article 34(1) and (2) or the assistance provided for in Article 34(5) requires authorisation by a judicial authority according to national rules, such authorisation shall be applied for.
728.	Art. 35 – para 2	2. Where authorisation as referred to in paragraph 1 is applied for, the national judicial authority shall control that the decision of the Board is authentic and that the coercive measures envisaged are neither arbitrary nor excessive having regard to the subject matter of the inspection. In its control of the proportionality of the coercive measures, the national judicial authority may ask the Board for detailed explanations, in particular relating to the grounds the Board has for suspecting that an infringement of the acts referred to in Article 26 has taken place and the seriousness of the suspected infringement and the nature of the involvement of the person subject to the coercive measures. However, the national judicial authority shall not review the necessity for the inspection or demand to be provided with the information on the Board's file. The lawfulness of the Board's decision shall be subject to review only by the Court of Justice of the European Union.
729.		Chapter 6
730.		*Penalties*
731.		*Article 36*
732.	Article 36 title	*Fines*
733.	Art. 36 – para 1 – subpara 1	1. Where the Board finds that an entity referred to in Article 2 has intentionally or negligently committed one of the infringements listed in paragraph 2, the Board shall take a decision imposing a fine in accordance with paragraph 3.
734.	Art. 36 – para 1 – subpara 2	An infringement by such an entity shall be considered to have been committed intentionally if there are objective factors which demonstrate that the entity or its senior-management **or management** body acted deliberately to commit the infringement.
735.	Art. 36 – para 2	2. The fines shall be imposed on entities referred to in Article 2 for the following infringements:
736.	Art. 36 – para 2 – point a	(a) where they do not supply the information requested in accordance with Article 32;
737.	Art. 36 – para 2 – point b	(b) where they do not submit to a general investigation in accordance with Article 33 or an on–site inspection ***in accordance with Article 34***;

738.	Art. 36 – para 2 – point c	[…]
739.	Art. 36 – para 2 – point d	(d) where they do not comply with a decision addressed to them by the Board pursuant to ***Article 26***.
740.	Art. 36 – para 3	3. The basic amount of the fines referred to in paragraph 1 shall be a percentage of the total annual net turnover including the gross income consisting of interest receivable and similar income, income from shares and other variable or fixed–yield securities, and commissions or fees receivable in accordance with Article 316 of Regulation (EU) No 575/2013 of the undertaking in the preceding business year, or in the Member States whose currency is not the euro, the corresponding value in the national currency on the date of entry into force of this Regulation, and included within the following limits:
741.	Art. 36 – para 3 – point a (new)	(a) For the infringements referred to in paragraph 2(a), the basic amount shall amount to at least 0,05% and shall not exceed 0,15%;
742.	Art. 36 – para 3 – point b (new)	(b) For the infringements referred to in paragraph 2(b), the basic amount shall amount to at least 0,05% and shall not exceed 0,15%;
743.	Art. 36 – para 3 – point c (new)	(c) For the infringements referred to in paragraph 2(c), the basic amount shall amount to at least 0,25% and shall not exceed 0,5%;
744.	Art. 36 – para 3 – point d (new)	(d) For the infringements referred to in paragraph 2(d), the basic amount shall amount to at least 0,25%and shall not exceed 0,5%.
745.	Art. 36 – para 3 – subpara 1a (new)	In order to decide whether the basic amount of the fines should be set at the lower, the middle or the higher end of the limits set out in the first subparagraph, the Board shall have regard to the annual turnover in the preceding business year of the entity concerned ~~to~~. The basic amount shall be at the lower end of the limit for entities whose annual turnover is below EUR 1 billion, the middle of the limit for the entities whose annual turnover is between EUR 1 billion and 5 billion and the higher end of the limit for the entities whose annual turnover is higher than EUR 5 billion.
746.	Art. 36 – para 4	4. The basic amounts defined in paragraph 3 shall be adjusted, if need be, by taking into account the aggravating or mitigating factors referred to in paragraphs 5 and 6, in accordance with the relevant coefficients referred to in paragraph 9.
747.	Art. 36 – para 4 – subpara 1a (new)	The relevant mitigating coefficient shall be applied one by one to the basic amount. If more than one mitigating coefficient is applicable, the difference between the basic amount and the amount resulting from the application of each individual mitigating coefficient shall be subtracted from the basic amount.

748.	Art. 36 – para 4 – subpara 1b (new)	The relevant aggravating coefficient shall be applied one by one to the basic amount. If more than one aggravating coefficient is applicable, the difference between the basic amount and the amount resulting from the application of each individual aggravating coefficient shall be added to the basic amount.
749.	Art. 36 – para 5 (new) – introductory part	5. The following aggravating factors shall apply in respect of the fines referred to in paragraph 1:
750.	Art. 36 – para 5 (new) – point a	(a) the infringement has been committed intentionally;
751.	Art. 36 – para 5 (new) – point b	(b) the infringement has been committed repeatedly;
752.	Art. 36 – para 5 (new) – point c	(c) the infringement has been committed for more than three months;
753.	Art. 36 – para 5 (new) – point d	(d) the infringement has revealed systemic weaknesses in the organisation of the entity, in particular in its procedures, management systems or internal controls;
754.	Art. 36 – para 5 (new) – point e	(e) no remedial action has been taken since the breach has been identified. **(ea) the entity's senior management has not cooperated with the Board in carrying out its investigations.**
755.	Art. 36 – para 6 (new) – introductory part	6. The following mitigating factors shall apply in respect of the fines referred to in paragraph 1:
756.	Art. 36 – para 6 (new) – point a	(a) the infringement has been committed for fewer than 10 working days;
757.	Art. 36 – para 6 (new) – point b	(b) the entity's senior management can demonstrate that they have taken all the necessary measures to prevent the infringement;
758.	Art. 36 – para 6 (new) – point c	(c) the entity has brought quickly, effectively and completely the infringement to Board's attention;
759.	Art. 36 – para 6 (new) – point d	(d) the entity has voluntarily taken measures to ensure that similar infringement cannot be committed in the future.
760.	Art. 36 – para 7 (new) – subpara 1	7. Notwithstanding paragraphs 2 to 6, the fines applied shall not exceed 1 % of the annual turnover of the entity referred to in paragraph 1 concerned in the preceding business year**. By derogation to the previous sentence, where** the entity has directly or indirectly benefited financially from that

		infringement and where profits gained or losses avoided because of the breach can be determined, the fine shall be at least equal to that financial benefit.
761.	Art. 36 – para 7 (new) – subpara 2	Where an act or omission of an entity referred to in paragraph 1 constitutes more than one infringement listed in paragraph 2, only the higher fine calculated in accordance with this Article and related to one of those infringements shall apply.
762.	Art. 36 – para 8 (new)	8. In the cases not covered by paragraph 2, the Board may recommend to national resolution authorities to take action in order to ensure that appropriate **penalties** are imposed in accordance with Articles 100 to 102 of the BRRD and with any relevant national legislation.
763.	Art. 36 – para 9 (new) – subpara 1 – introductory part	9. The Board shall apply the following adjustment coefficients linked to aggravating factors when calculating the fines:
764.	Art. 36 – para 9 (new) – subpara 1 – point a	a) If the infringement has been committed repeatedly, for every time it has been repeated, an additional coefficient of 1,1 shall apply.
765.	Art. 36 – para 9 (new) – subpara 1 – point b	b) If the infringement has been committed for more than three months, a coefficient of 1,5 shall apply. **ba) If the infringement has revealed systemic weaknesses in the organisation of the entity , in particular in its procedures, management systems or internal controls, a coefficient of 2,2 shall apply.**
766.	Art. 36 – para 9 (new) – subpara 1 – point c	c) If the infringement has been committed intentionally, a coefficient of 2 shall apply. **ca) If no remedial action has been taken since the breach has been identified, a coefficient of 1,7 shall apply.**
767.	Art. 36 – para 9 (new) – subpara 1 – point d	d) If the entity's senior management has not cooperated with the Board in carrying out its investigations, a coefficient of 1,5 shall apply.
768.	Art. 36 – para 9 (new) – subpara 2 – introductory part	The Board shall apply the following adjustment coefficients linked to mitigating factors when calculating the fines:
769.	Art. 36 – para 9 (new) – subpara 2 – point a	a) If the infringement has been committed for fewer than 10 working days, a coefficient of 0,9 shall apply.
770.	Art. 36 – para 9 (new) – subpara 2 – point b	b) If the entity's senior management can demonstrate that they have taken all the necessary measures to prevent the infringement, a coefficient of 0,7 shall apply.
771.	Art. 36 –	c) If the entity has brought quickly, effectively and completely the

	para 9 (new) – subpara 2 – point c	infringement to Board's attention, a coefficient of 0,4 shall apply.
772.	Art. 36 – para 9 (new) – subpara 2 – point d	d) If the entity has voluntarily taken measures to ensure that similar infringement cannot be committed in the future, a coefficient of 0,6 shall apply.
773.		*Article 37*
774.	Article 37 title	*Periodic penalty payments*
775.	Art. 37 – para 1	1. The Board shall by a decision impose a periodic penalty payment in respect of the relevant entity referred to in Article 2 in order to compel:
776.	Art. 37 – para 1 – point a	(a) ***an entity referred to in Article 2*** to comply with a decision adopted under Article 32;
777.	Art. 37 – para 1 – point b	(b) a person referred to in Article 32(1) to supply complete information which has been required by a decision pursuant to that Article;
778.	Art. 37 – para 1 – point c	(c) a person referred to in Article 33(1) to submit to an investigation and in particular to produce complete records, data, procedures or any other material required and to complete and correct other information provided in an investigation launched by a decision taken pursuant to that Article;
779.	Art. 37 – para 1 – point d	(d) a person referred to in Article 34(1) to submit to an on–site inspection ordered by a decision taken pursuant to that Article.
780.	Art. 37 – para 2	2. A periodic penalty payment shall be effective and proportionate. The periodic penalty payment shall be imposed on a daily basis until the ***entity referred to in Article 2*** or person concerned complies with the relevant decisions referred to in points (a) to (d) of paragraph 1
781.	Art. 37 – para 3a (new)	2a. Notwithstanding paragraph 2, the amount of a periodic penalty payment shall be 0,1 % of the average daily turnover in the preceding business year. The periodic penalty payment shall be calculated from the date stipulated in the decision imposing the periodic penalty payment.
782.	Art. 37 – para 3	3. A periodic penalty payment may be imposed for a period of no more than six months following the notification of the Board's decision.
783.		*Article 37a*
784.	Art. 37a (new) – title	*Hearing of the persons subject to the proceedings*
785.	Art. 37 a (new) – para 1	1. Before taking any decision imposing a fine and/or periodic penalty payment under Article 36 or Article 37, the Board shall give the persons subject to the proceedings the opportunity to be heard on its findings. The Board shall base its decisions only on findings on which the entities subject to the proceedings have had the opportunity to comment.
786.	Art. 37 a (new) – para	2. The rights of defence of the entities subject to the proceedings shall be fully respected during the proceedings. They shall be entitled to have

	2	access to the Board's file, subject to the legitimate interest of other persons in the protection of their business secrets. The right of access to the file shall not extend to confidential information or internal preparatory documents of the Board.
787.		Article 37b
788.	Art. 37 b (new) – title	*Disclosure, nature, enforcement and allocation of fines and periodic penalty payments*
789.	Art. 37 b (new) – para 1 – subpara 1 – introductory part	1. The Board shall publish the **decisions imposing penalties** referred to paragraph 1, unless such disclosure could endanger the resolution of the **entity concerned**. The publication shall be on an anonymous basis, in any of the following circumstances:
790.	Art. 37 b (new) – para 1 – subpara 1 – point a	(a) where the information published contains personal data and following an obligatory prior assessment, such publication of personal data is found to be disproportionate;
791.	Art. 37 b (new) – para 1 – subpara 1 – point b	(b) where publication would jeopardise the stability of financial markets or an on–going criminal investigation;
792.	Art. 37 b (new) – para 1 – subpara 1 – point c	(c) where publication would cause, insofar as it can be determined, disproportionate damage to the entities or persons involved.
793.	Art. 37 b (new) – para 1 – subpara 2	Alternatively, where the circumstances referred to in the first subparagraph are likely to cease within a reasonable period of time, publication referred to in subparagraph 1 may be postponed for such a period of time. *The* **Board** *shall inform EBA of all administrative penalties imposed by them under* **Articles 36 and 37** *and information on the appeal status and outcome thereof.*
794.	Art. 37 b (new) – para 2	2. Fines and periodic penalty payments imposed pursuant to Articles 36 and 37 shall be of an administrative nature.
795.	Art. 37 b (new) – para 3 – subpara 1	3. Fines and periodic penalty payments imposed pursuant to Articles 36 and 37 shall be enforceable.
796.	Art. 37 b (new) – para 3 – subpara 2	Enforcement shall be governed by the **applicable procedural** rules in force in the **participating Member** State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision without other formality than verification of the authenticity of the decision by the authority which the government of each **participating** Member State shall designate for that purpose and shall make known to the Board and to the Court of Justice of the European Union.
797.	Art. 37 b	When those formalities have been completed on application by the party

	(new) – para 3 – subpara 3	concerned, the latter may proceed to enforcement in accordance with the national law, by bringing the matter directly before the competent body.
798.	Art. 37 b (new) – para 3 – subpara 4	Enforcement may be suspended only by a decision of the Court of Justice of the European Union. However, the courts of the **participating** Member State concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.
799.	Art. 37 b (new) – para 4	4. The amounts of the fines and periodic penalty payments shall be allocated to the Resolution Fund.
800.		[...]
801.	Art. 37c (new) – title	[...]
802.	Art. 37c (new) –para 1	[...]
803.	Art. 37c (new) –para 2	[...]
804.	Art. 37c (new) –para 3 – subpara 1	[...]
805.	Art. 37c (new) –para 3 – subpara 2	[...]
806.	Art. 37c (new) –para 4 – subpara 1	[...]
807.	Art. 37c (new) – para 4 – subpara 2	[...]
808.	Art. 37c (new) –para 5	[...]
809.	Art. 37c (new) –para 6 – subpara 1	[...]
810.	Art. 37c (new) –para 6 – subpara 2	[...]
811.	Art. 37c (new) –para	[...]

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812.	Art. 37c (new) – para 8	[...]
813.		[...]
814.		[...]
815.		PART III
816.		INSTITUTIONAL FRAMEWORK
817.		TITLE I
818.		*THE BOARD*
819.		*Article 38*
820.	Article 38 title	*Legal status*
821.	Art. 38 – para 1	1. A Single Resolution Board is hereby established. The Board shall be a European Union agency with a specific structure corresponding to its tasks. It shall have legal personality.
822.	Art. 38 – para 2	2. In each Member State, the Board shall enjoy the most extensive legal capacity accorded to legal persons under national law. It may, in particular, acquire or dispose of movable and immovable property and be a party to legal proceedings.
823.	Art. 38 – para 3	3. The Board shall be represented by its **Chair**.
824.		*Article 39*
825.	Article 39 title	*Composition*
826.	Art. 39 – para 1	1. The Board shall be composed of:
827.	Art. 39 – para 1– point a	(a) the **Chair** appointed in accordance with Article 52;
828.	Art. 39 – para 1– point b	(b) four further full–time members appointed in accordance with Article 52;
829.	Art. 39 – para 1– point c	[…]

830.	Art. 39 – para 1– point d	[…]
831.	Art. 39 – para 1– point e	(c) a member appointed by each participating Member State, representing the national resolution authorities .
832.	Art. 39 – para 1– point e a (new)	[...]
833.	Art. 39 – para 1a (new)	1a. Each member**, including the Chair,** shall have one vote.
833 a.	Art. 39 para 1b (new)	**1b. The ECB and Commission shall designate a representative entitled to participate in the meetings of executive sessions and plenary sessions as a permanent observer.** **The representatives of the Commission and the ECB shall be entitled to participate in the debates and shall have access to all the documents.**
834.	Art. 39 – para 1c (new)	**1c.** In case of more than one national authority in a Member State, a second representative shall be allowed to participate as observer without voting rights.
835.	Art. 39 – para 2	[…]
836.	Art. 39 – para 3	3. The Board's administrative and management structure shall comprise:
837.	Art. 39 – para 3– point a	(a) a plenary session of the Board, which shall exercise the tasks set out in ***Article 46***;
838.	Art. 39 – para 3– point b	(b) an executive session of the Board, which shall exercise the tasks set out in ***Article 50***;
839.	Art. 39 – para 3– point c	(c) a **Chair**, which shall exercise the tasks set out in ***Article 52***.
840.		**(ca)** the Secretariat, which shall exercise the assignments of the Board.
841.		*Article 40*
842.	Article 40 title	*Compliance with Union law*
843.	Art. 40 – intro	The Board shall act in compliance with Union law, in particular with the Council and the Commission decisions pursuant to this Regulation.
844.		*Article 41*
845.	Article 41 titile	*Accountability*
846.	Art. 41 –	1. The Board shall be accountable to the European Parliament, the

	para 1	Council and the Commission for the implementation of this Regulation, in accordance with paragraphs 2 to 8.
847.	Art. 41 – para 2	2. The Board shall submit each year a report to the European Parliament, the national Parliaments of participating Member States in accordance with Article 42, the Council, the Commission and the European Court of Auditors on the execution of the tasks conferred upon it by this Regulation. ***Subject to the requirements on professional secrecy, that report shall be published on the Board's website.***
848.	Art. 41 – para 3	3. The **Chair** shall present that report in public to the European Parliament, and to the Council.
849.	Art. 41 – para 4	4. At the request of the European Parliament, the **Chair** shall participate in a hearing by the competent committee of the European Parliament on the execution of the resolution tasks by the Board. ***A hearing shall take place at least once every calendar year.***
850.	Art. 41 – 4a (new)	[…]
851.	Art. 41 – para 5	5. The **Chair** may be heard by the Council, at its request, on the execution of the resolution tasks by the Board.
852.	Art. 41 – para 6	6. The Board shall reply orally or in writing to questions addressed to it by the European Parliament or by the Council, according to its own procedures ***and in any event within five weeks of transmission***.
853.	Art. 41 – para 7	7. Upon request, the **Chair** shall hold confidential oral discussions behind closed doors with the Chair and **Vice** Chairs of the competent committee of the European Parliament where such discussions are required for the exercise of the European Parliament's powers under the Treaty. An agreement shall be concluded between the European Parliament and the Board on the detailed modalities of organising such discussions, with a view to ensuring full confidentiality in accordance with the confidentiality obligations imposed **on the Board by this Regulation and when acting as national resolution authority** under relevant Union law.
854.	Art. 41 – para 8	8. During any investigations by the **European** Parliament, the Board shall cooperate with the Parliament, subject to the TFEU and regulations referred to in Article 226 of the TFEU. **Within 6 months after the appointment of the Chair**, the Board and the **European** Parliament shall conclude appropriate arrangements on the practical modalities of the exercise of democratic accountability and oversight over the exercise of the tasks conferred on the Board by this Regulation. **Subject to the powers of the European Parliament pursuant to Article 226 of the TFEU,** those arrangements shall cover, inter alia, access to information, **including rules on the handling and protection of classified or otherwise confidential information, cooperation in hearings, as referred to in Article 41(4), confidential oral discussions, reports, responding to questions,** investigations and information on the selection procedure of the **Chair,** the **Vice-Chair, and the four members referred to in Article 39(1)(b)**.
855.	Art. 41 – para 8 – subpara 1a	[…]

	(new)	
856.		*Article 42*
857.	Art. 42 titile	*National Parliaments*
858.	Art. 42 – para –1 – subpara 1a (new)	[…]
859.	Art. 42 – para –1 – subpara 1b (new)	[…]
860.	Art. 42 – para 1	1. Due to the specific tasks of the Board, national Parliaments of the participating Member States, through their own procedures, may request the Board to reply and the Board is obliged to reply in writing to any observations or questions submitted by them to the Board in respect of the functions of the Board under this Regulation.
861.	Art. 42 – para 1a (new)	1a. When submitting the report provided for in Article 41(2), the Board shall simultaneously forward that report directly to the national parliaments of the participating Member States. National parliaments may address to the Board their reasoned observations on that report. The Board shall reply orally or in writing to any observations or questions addressed to it by the national Parliaments of the participating Member States, according to its own procedures.
862.	Art. 42 – para 2	2. The national Parliament of a participating Member State may invite the **Chair** to participate in an exchange of views in relation to the resolution of ***entities referred to in Article 2*** in that Member State together with a representative of the national resolution authority. The **Chair** is obliged to follow such invitation.
863.	Art. 42 – para 3	3. This Regulation shall be without prejudice to the accountability of national resolution authorities to national Parliaments in accordance with national law for the performance of tasks not conferred on the Board or on the Council **or** on the Commission by this Regulation and for the performance of activities carried out by them in accordance with **Article 6a(3)**
864.		*Article 43*
865.	Article 43 titile	*Independence*
866.	Art. 43 – para 1	1. When carrying out the tasks conferred upon it by this Regulation, the Board and the national resolution authorities shall act independently and in the general interest.
867.	Art. 43 – para 2	2. **The Chair, the Vice-Chair and the members referred to in Article 39(1)(b) shall exercise their tasks in conformity with the decisions of the Commission, the Council and of the Board. They** shall act independently and objectively in the interest of the Union as a whole and shall neither seek nor take instructions from the Union's institutions or

		bodies, from any Government of a Member State or from any other public or private body. **In the deliberations and decision–making processes within the Board, they shall express their own views and vote independently.**
868.	Art. 43 – para 2a (new)	**2a. Neither Member States, the Union's institutions or bodies, nor any other public or private body shall** seek to influence the **Chair, the Vice-Chair or the** members of the Board.
868 a	Art. 43 – para 3a (new)	**3a. In accordance with the Staff Regulations referred to in Article 78(6), the Chair, the Vice-Chair and the members referred to in Article 39(1)(b) shall, after leaving service, continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits.**
869.		[…]
870.	Art. 43a (new) – title	[…]
871.	Art. 43a (new) – para 1	[…]
872.	Art. 43a (new) – para 1 – point a	[…]
873.	Art. 43a (new) – para 1 – point b	[…]
874.	Art. 43a (new) – para 1 – point c	[…]
875.	Art. 43a (new) – para 1 – point d	[…]
876.	Art. 43a (new) – para 1 – point e	[…]
877.	Art. 43a (new) – para 1 – point f	[…]
878.		*Article 44*
879.	Article 44 titile	*Seat*
880.	Art. 44 – intro	The Board shall have its seat in Brussels, Belgium.

881.		TITLE II
882.		*PLENARY SESSION OF THE BOARD*
883.		*Article 45*
884.	Article 45 titile	*Participation in plenary sessions*
885.	Art. 45 – intro	All members of the Board referred to in Article 39(1) shall participate in its plenary sessions.
886.		*Article 46*
887.	Article 46 title	*Tasks*
888.	Art. 46 – para 1	1. In its plenary session, the Board shall:
889.	Art. 46 – para 1 – point a	(a) adopt, by 30 November of each year, the Board's annual work programme for the coming year, based on a draft put forward by the **Chair** and shall transmit it for information to the European Parliament, the Council, the Commission, and the European Central Bank;
890.	Art. 46 – para 1 – point b	(b) adopt **and monitor** the annual budget of the Board in accordance with ***Article 58(2)***, **and** approve the Board's final accounts and give discharge to the **Chair in accordance with Article 60(4) and (8).**
891.	Art. 46 – para 1 – point ba (new)	[…]
892.	Art. 46 – para 1 – point bb (new)	**(bb) subject to the procedure referred to in paragraph 1a, decide on the use of the Fund, if the support of the Fund in that specific resolution action is required above the threshold of 5bn euro for which the weighting of liquidity support is 0.5;** **(bbb) Once the net accumulated use of the Fund in the last consecutive 12 months reaches the threshold of 5 billion EUR per year, evaluate the application of the resolution tools, in particular the use of the Fund, and provide guidance which the executive session shall follow in subsequent resolution decisions, in particular, if appropriate, differentiating between liquidity and other forms of support.**
893.	Art. 46 – para 1 – point c	(c) **decide on the necessity to raise extraordinary ex-post contributions in accordance with Article 67,** decide on the voluntary borrowing between financing arrangements in accordance with Article 68, on alternative financing means in accordance with Article 69**,** and on the mutualisation of national financing arrangements in accordance with Article 72, involving support of the Fund above the threshold referred to bb).
894.	Art. 46 –	(ca) decide on the investments in accordance with Article 70;

	para 1 – point ca (new)	
895.	Art. 46 – para 1 – point d	(d) adopt ***the*** annual activity report on the Board's activities referred to in ***Article 41, which*** **shall** present detailed explanations on the implementation of the budget;
896.	Art. 46 – para 1 – point e	(e) adopt the financial rules applicable to the Board in accordance with Article 61;
897.	Art. 46 – para 1 – point f	(f) adopt an anti–fraud strategy, proportionate to fraud risks taking into account the costs and benefits of the measures to be implemented;
898.	Art. 46 – para 1 – point g	(g) adopt rules for the prevention and management of conflicts of interest in respect of its members;
899.	Art. 46 – para 1 – point h	(h) adopt its rules of procedure **and those of the Board in its executive session**;
900.	Art. 46 – para 1 – point i	(i) in accordance with paragraph 2, exercise, with respect to the staff of the Board, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority Empowered to Conclude a Contract of Employment[11] ("the appointing authority powers");
901.	Art. 46 – para 1 – point j	(j) adopt appropriate implementing rules for giving effect to the Staff Regulations and the Conditions of Employment of Other Servants in accordance with Article 110 of the Staff Regulations;
902.	Art. 46 – para 1 – point ja (new)	[...]
903.	Art. 46 – para 1 – point k	(k) appoint an Accounting Officer, subject to the Staff Regulations and the Conditions of Employment of Other Servants, who shall be functionally independent in the performance of his/her duties;
904.	Art. 46 – para 1 – point l	(l) ensure adequate follow–up to findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of the European Anti–fraud Office (OLAF);
905.	Art. 46 – para 1 – point m	(m) take all the decisions on the establishment of the Board's internal structures and, where necessary, their modification;
906.	Art. 46 – para 1 – point n (new)	[...]
907.	Art. 46 – para 1 –	**(o) approve the framework referred to in Article 29(1) to organise the practical arrangements for the cooperation with the national resolution**

(1) 11

	point o (new)	**authorities.**
907a	Art. 46 – para 1a new	**1a. When deciding, the plenary session of the Board shall respect the objectives as specified in Articles 6 and 12.** **For the purposes of point (bb) of paragraph 1, the resolution scheme prepared by the Executive is deemed to be adopted unless, within 3 hours from the submission of the draft by the executive session to the Plenary session at least 1 member of the plenary session has called a meeting of the plenary session. In the latter case, a decision on the resolution scheme shall be taken by the plenary session.**
908.	Art. 46 – para 2 – subpara 1	2. In its plenary session, the Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and on Article 6 of the Conditions of Employment of Other Servants, delegating relevant appointing authority powers to the **Chair** and defining the conditions under which the delegation of powers can be suspended. The **Chair** shall be authorised to sub–delegate those powers.
909.	Art. 46 – para 2 – subpara 2	Where exceptional circumstances so require, the Board in its plenary session may by way of a decision temporarily suspend the delegation of the appointing authority powers to the **Chair** and those sub–delegated by the latter and exercise them itself or delegate them to one of its members or to a staff member other than the **Chair**.
910.		*Article 47*
911.	Article 47 title	*Meeting of the plenary session of the Board*
912.	Art. 47 – para 1	1. The **Chair** shall convene and chair meetings of the plenary session of the Board in accordance with Article 52(2)(a).
913.	Art. 47 – para 2	2. The Board in its plenary session shall hold at least two ordinary meetings a year. In addition, it shall meet on the initiative of the **Chair**, or at the request of at least one–third of its members. **The representative of the Commission may request the Chair to convene a meeting of the Board in its plenary session. The Chair shall provide reasons in writing if he or she does not convene a meeting in due time.**
914.	Art. 47 – para 3	3. Where relevant, the Board may invite observers to participate in the meetings of its plenary session on an *ad hoc* basis, **including a representative of the EBA.**
915.	Art. 47 – para 3a (new)	[…]
916.	Art. 47 – para 4	4. The Board shall provide for the secretariat of the plenary session of the Board.
917.		*Article 48*
918.	Article 48	*General provisions on decision–making process*

	titile	
919.	Art. 48 – para 1	1. The Board, in its plenary session, shall take its decisions by a simple majority of its members, unless otherwise provided for in this Regulation. Each voting member shall have one vote. In case of a tie, the **Chair** shall have a casting vote.
920.	Art. 48 – para 1a (new)	1a. By derogation from paragraph 1, decisions referred to in Article 46(1), **points (bb),** ***(bbb) as well as on the mutualisation of national financing arrangements in accordance with Article 72,*** **limited to the use of the financial means available in the Fund,** shall be taken by a ***simple*** majority of the Board members, **representing at least *30%* of contributions. Each voting member shall have one vote. In case of a tie, the Chair shall have a casting vote.** ***1b. By derogation from paragraph 1, decisions referred to in Article 46(1), which involve the raising of ex post contributions in accordance with Article 67, voluntary borrowing between financing arrangements in accordance with Article 68, on alternative financing means in accordance with Article 69, and Article 69a, as well as on the mutualisation of national financing arrangements in accordance with Article 72***, **exceeding the use of the financial means available in the Fund,** ***shall be taken by a majority of 2/3 of the Board members, representing at least 50% of contributions during the 8 year transitional period until the SRF is fully mutualised and by a majority of 2/3 of the Board members, representing at least 30% of contributions from then on. Each voting member shall have one vote. In case of a tie, the Chair shall have a casting vote.***
921.	Art. 48 – para 2	[…]
922.	Art. 48 – para 3	3. The Board shall adopt and make public its rules of procedure. The rules of procedure shall establish more detailed voting arrangements, in particular the circumstances in which a member may act on behalf of another member and including, where appropriate, the rules governing quorums.
923.		TITLE III
924.		*EXECUTIVE SESSION OF THE BOARD*
925.		*Article 49*
926.	Art. 49 – title	*Participation in the executive sessions*
927.	Art. 49 – para -1 (new) – subpara 1	–1. The Board in its executive session is composed of the **Chair** and the four members referred to in Article 39(1)(b)**.** The Board, in its executive session, shall meet as often as necessary.
928.	Art. 49 – para -1 (new) – subpara 2	Meetings of the Board in its executive session shall be convened by the **Chair** on his/**her** own initiative or at the request **of** any of the members, and shall be chaired by the **Chair**.
929.	Art. 49 – para -1 (new)	Where relevant, the Board in its executive session may invite observers **in addition to those referred to in article 39(1b), including a**

	– subpara 3	**representative of the EBA,** and shall invite national resolution authorities of non–participating Member States, when deliberating on a group that has subsidiaries or significant branches in those non–participating Member States, to participate at its meetings. The participation shall be on an *ad hoc* basis.
930.	Art. 49 – para -1 (new) – subpara 4	[…]
931.	Art. 49 – para 1	1. Subject to paragraphs 2 and 3, the members of the Board referred to in Article 39(1)**(c)** shall participate in the executive sessions of the Board.
932.	Art. 49 – para 2	2. When deliberating on an entity referred to in Article 2 or a group of entities established only in one participating Member State, the member appointed by that Member State shall also participate in the deliberations and in the decision–making process, and the rules set out in Article 51(1) shall apply.
933.	Art. 49 – para 3	3. When deliberating on a cross–border group, the member appointed by the Member State in which the group level resolution authority is situated, as well as the members appointed by the Member States in which a subsidiary or entity covered by consolidated supervision is established, shall also participate in the decision–making process, and the rules set out in Article 51(2) shall apply.
934.	Art. 49 – para 3a (new)	***3a. The members of the Board referred to in Article 39(1)(a) to* (b) *shall ensure that the resolution decisions and actions, in particular with regard to the use of the Fund, across the different formations of the executive sessions of the Board are coherent, appropriate and proportionate.***
935.		*Article 50*
936.	Article 50 title	*Tasks*
937.	Art. 50 – para 1	[…]
938.	Art. 50 – para 2	2. The Board, in its executive session, shall:
939.	Art. 50 – para 2 – point a	(a) prepare ***all*** decisions to be adopted by the Board in its plenary session;
940.	Art. 50 – para 2 – point b – subpara 1	(b) take all decisions to implement this Regulation, unless this Regulation provides otherwise.
941.	Art. 50 – para 2 – point b – subpara 2	This includes:
942.	Art. 50 – para 2 – point b –	***(–i) preparing, assessing and approving resolution plans* for entities and groups referred to in Article 6a(2), and for the entities and groups**

	subpara 2 – point –i (new)	**referred to in Article 6a(4)(ii) and (5) when the conditions for the application of these paragraphs are met,** ***in accordance with Articles 7,*** **8 and** ***9;***
943.	Art. 50 – para 2 – point b – subpara 2 – point –ia (new)	***(–ia) determining the minimum requirement for own funds and eligible liabilities that*** **entities and groups referred to in Article 6a(2), and entities and groups referred to in Article 6a(4)(ii) and (5) when the conditions for the application of these paragraphs are met,** ***need to maintain in accordance with Article 10;***
943a.	Art. 50 – para 2 – point b – subpara 2 – point –ib (new)	**(-ib) applying simplified obligations to certain entities and groups referred to in Article 6a(2), and entities and groups referred to in Article 6a(4)(ii) and (5) when the conditions for the application of these paragraphs are met, in accordance with Article 9;**
944.	Art. 50 – para 2 – point b – subpara 2 – i	(i) providing the Commission, as early as possible, with **a resolution scheme in accordance with Article 16 accompanied by all** relevant information allowing **in due time** the Commission to assess and **decide or, where appropriate, propose a decision to the Council** pursuant to Article 16(6);
945.	Art. 50 – para 2 – point b – subpara 2 – ii	(ii) deciding upon the Board's part II of the budget on the Fund, according to the provisions of Article 57.
946.	Art. 50 – para 3	3. When necessary, because of urgency, the Board, in its executive session may take certain provisional decisions on behalf of the Board in its plenary session, in particular on administrative management matters, including budgetary matters. **3a. The Board, in its executive session, shall keep the Board in its plenary session informed of the decisions it takes on resolution.**
947.	Art. 50 – para 4	[...]
948.	Art. 50 – para5	[...]
949.		*Article 51*
950.	Article 51 title	*Decision–making*
951.	Art. 51 – para 1	1. When deliberating on an individual entity or a group established only in one participating Member State, if all members referred to in Article 49(–1) and (2) are not able to reach a joint agreement by consensus within a deadline set by the **Chair**, the **Chair** and the members referred to in Article 39(1)(b) shall take a decision by a simple majority.
952.	Art. 51 –	2. When deliberating on a cross–border group, if all members referred to

	para 2	in Article 49(–1) and (3) are not able to reach a joint agreement by consensus within a deadline set by the **Chair**, the **Chair** and the members referred to in Article 39(1)(b) shall take a decision by a simple majority.
953.		2a. In case of a tie the **Chair** shall have a casting vote.
954.	Art. 51 – para 3	[…]
955.	Art. 51 – para 4 – subpara 1	[…]
956.	Art. 51 – para 4 – subpara 2	[…]
957.		TITLE IV
958.		***CHAIR***
959.		*Article 52*
960.	Article 52 title	*Appointment and tasks*
961.	Art. 52 – para 1	1. The Board shall be **chaired** by a full–time **Chair**.
962.	Art. 52 – para 2	2. The **Chair** shall be responsible for:
963.	Art. 52 – para 2 – point a	(a) preparing the work of the Board, in its plenary and executive sessions, and convening and chairing its meetings;
964.	Art. 52 – para 2 – point b	(b) all staff matters;
965.	Art. 52 – para 2 – point c	(c) matters of day–to–day administration;
966.	Art. 52 – para 2 – point d	(d) the establishment of a draft budget of the Board in accordance with Article 58(1) and the implementation of the budget of the Board, in accordance with Article 60.
967.	Art. 52 – para 2 – point e	(e) the management of the Board;
968.	Art. 52 – para 2 – point f	(f) the implementation of the annual work programme of the Board;
969.	Art. 52 – para 2 – point g	(g) ***the preparation,*** each year ***of*** **a draft of** the annual report referred to in Article 41 with a section on the resolution activities of the Board and a section on financial and administrative matters.
970.	Art. 52 – para 3 – subpara 1	3. The **Chair** shall be assisted by a **Vice-Chair**.

971.		In the exercise of the tasks set out in this Article, the **Chair** shall be assisted by a dedicated staff.
972.	Art. 52 – para 3 – subpara 2	The **Vice-Chair** shall carry out the functions of the **Chair** in his/**her** absence or reasonable impediment, in accordance with this Regulation.
973.	Art. 52 – para 4	4. The **Chair**, the **Vice-Chair** and the members referred to in Article 39(1)(b) shall be appointed on the basis of merit, skills, knowledge of banking and financial matters, and of experience relevant to financial supervision, regulation as well as bank resolution. ***The Chair, the Vice-Chair and the members referred to in Article 39 (1) (b) shall be chosen on the basis of an open selection procedure, which shall respect the principles of gender balance, experience and qualification, of which the European Parliament and the Council shall be kept duly informed*** **at every stage of the procedure in a timely manner.**
974.	Art. 52 – para 4 – subpara 1a (new)	[...]
975.	Art. 52 – para 4a – subpara 1 (new)	4a. The term of office of the **Chair**, **of the Vice-Chair** and of the members referred to in Article 39(1)(b) shall be five years. Subject to paragraph 6 of this Article, that term shall not be renewable.
976.	Art. 52 – para 4a – subpara 2 (new)	The **Chair, the Vice-Chair** and the members referred to in Article 39(1)(b) shall not hold any offices at national**,** Union**, or international** level.
977.	Art. 52 – para 5	5. After hearing the Board, in its plenary session, the Commission shall **provide to the European Parliament a shortlist** of candidates **for the positions of Chair**, **Vice-Chair and members referred to in Article 39(1)(b) and inform the Council about the shortlist.** **By derogation from the previous subparagraph, for the appointment of the first members of the Board following the entry into force of this Regulation, the Commission shall provide the shortlist of candidates without hearing the Board.**
978.	Art. 52 – para 5 – subpara 1 a (new)	***The Commission shall submit a proposal*** for the appointment of the **Chair**, the **Vice-Chair and the members referred to in Article 39(1)(b)** ***to the European Parliament for approval***. ***Following the approval of that proposal,*** the Council shall ***adopt an implementing decision to*** appoint the **Chair**, the **Vice-Chair and the members referred to in Article 39(1)(b). The Council shall act by qualified majority**.
979.	Art. 52 – para 6	6. By derogation from **paragraph 4a**, the term of office of the first **Chair** appointed after the entry into force of this Regulation shall be three years; this term is renewable once for a period of five years. The **Chair**, ~~and~~ the **Vice-Chair, and the members referred to in Article 39(1)(b)** shall remain in office until their successors are appointed.
980.	Art. 52 – para 7	7. ***A*** **Chair** whose term of office has been extended shall not participate in another selection procedure for the same post at the end of the overall

		period.
981.	Art. 52 – para 8	8. If the **Chair or the Vice-Chair** or a member referred to in Article 39(1)(b) no longer fulfil the conditions required for the performance of his/her duties or has been guilty of serious misconduct, the Council may, on a proposal from the Commission ***which has been approved by*** the European Parliament, ***adopt an implementing decision to*** remove him/her from office. The Council shall act by qualified majority.
982.	Art. 52 – para 8 – subpara 1a (new)	***For those purposes, the European Parliament or the Council may inform the Commission that they consider that the conditions for the removal of the Chair or the Vice-Chair from office are fulfilled, to which the Commission shall respond.***
983.		[...]
984.	Article 53 title	[...]
985.	Art. 53– para 1 – subpara 1	[...]
986.	Art. 53– para 1 – subpara 2	[...]
987.	Art. 53– para 2	[...]
988.	Art. 53– para 3	[...]
989.		TITLE V
990.		*FINANCIAL PROVISIONS*
991.		Chapter 1
992.		*General provisions*
993.		*Article 54*
994.	Article 54 title	*Resources*
995.	Art. 54 – para 1	1. The Board shall be responsible for devoting the necessary financial and human resources to the exercise of the tasks conferred upon it by this Regulation.
996.	Art. 54 – para 2 (new)	2. The funding of the Board's budget or its resolution activities under this Regulation may under no circumstances engage the budgetary liability of the Member States.
997.		*Article 55*
998.	Article 55 title	*Budget*

999.	Art. 55 – para 1	1. The Board shall have an autonomous budget which is not part of the EU budget. Estimates of all the Board's revenue and expenditure shall be prepared for each financial year, corresponding to the calendar year, and shall be shown in the Board's budget.
1000.	Art. 55 – para 2	2. The Board's budget shall be balanced in terms of revenue and expenditure.
1001.	Art. 55 – para 3	3. The budget shall comprise two parts: Part I for the administration of the Board and Part II for the Fund.
1002.		*Article 56*
1003.	Article 56 title	*Part I of the budget on the administration of the Board*
1004.	Art. 56 – para 1	1. The revenues of Part I of the budget shall consist of the annual contributions necessary to cover the ***annual estimated*** administrative expenditure.
1005.	Art. 56 – para 2	2. The expenditure of Part I of the budget shall include at least staff, remuneration, administrative, infrastructure, professional training and operational expenses.
1006.	Art. 56 – para 3 (new)	3. This Article is without prejudice to the right of the national resolution authorities to levy fees in accordance with national law, in respect of **their administrative expenditures of the type of those referred to in paragraphs 1 and 2,** including **expenditures** for cooperating with and assisting the Board.
1007.		*Article 57*
1008.	Article 57 title	*Part II of the budget on the Fund*
1009.	Art. 57 – para 1	1. The revenues of Part II of the budget shall consist, in particular, of the following:
1010.	Art. 57 – para 1 – point a	(a) contributions paid by institutions established in the participating Member States in accordance with **Articles 65 to 67**;
1011.	Art. 57 – para 1 – point b	(b) loans received from other resolution financing arrangements in non–participating Member States in accordance with Article 68(1);
1012.	Art. 57 – para 1 – point c	(c) loans received from financial institutions or other third parties in accordance with **Articles** 69 **and 69a;**
1013.	Art. 57 – para 1 – point d	(d) returns on the investments of the amounts held in the Fund in accordance with Article 70.;
1014.	Art. 57 – para 1 – point da (new)	(da) any part of the expenses incurred for the purposes indicated in Article 71 which are recovered in the resolution proceedings.
1015.	Art. 57 –	2. The expenditure of Part II of the budget shall consist of the following:

	para 2	
1016.	Art. 57 – para 2 – point a	(a) expenses for the purposes indicated in Article 71;
1017.	Art. 57 – para 2 – point b	(b) investments in accordance with Article 70;
1018.	Art. 57 – para 2 – point c	(c) interest paid on loans received from other resolution financing arrangements in non–participating Member States in accordance with Article 68(1);
1019.	Art. 57 – para 2 – point d	(d) interest paid on loans received from financial institutions or other third parties in accordance with **Articles** 69 **and 69a**.
1020.		*Article 58*
1021.	Article 58 title	*Establishment and implementation of the budget*
1022.	Art. 58 – para 1	1. By 15 February each year, the **Chair** shall draw up a draft budget of the Board, including a statement of estimates of the Board's revenue and expenditure for the following year together with the establishment plan and shall submit it to the Board for adoption.
1023.	Art. 58 – para 2	2. By 31 March each year, the Board in its plenary session shall, where necessary, adjust the draft submitted by the **Chair** and adopt the final budget of the Board together with the establishment plan.
1024.	Art. 58 – para 3	[…]
1025.		*Article 59*
1026.	Article 59 title	*Internal audit and control*
1027.	Art. 59 – para 1	1. An internal audit function shall be set up within the Board, to be performed in compliance with the relevant international standards. The internal auditor, appointed by the Board, shall be responsible to it for verifying the proper operation of budget implementation systems and budgetary procedures of the Board.
1028.	Art. 59 – para 2	2. The internal auditor shall advise the Board on dealing with risks, by issuing independent opinions on the quality of management and control systems and by issuing recommendations for improving the conditions of implementation of operations and promoting sound financial management.
1029.	Art. 59 – para 3	3. The responsibility for putting in place internal control systems and procedures suitable for carrying out the tasks of the internal auditor shall lie with the Board.
1030.		*Article 60*
1031.	Article 60 title	*Implementation of the budget, presentation of accounts and discharge*

1032.	Art. 60 – para 1	1. The **Chair** shall act as authorising officer and shall implement the Board's budget.
1033.	Art. 60 – para 2	2. By 1 March of the following financial year, the Board's Accounting Officer shall send the provisional accounts, accompanied by the report on budgetary and financial management during the financial year, to the Court of Auditors for observations.
1034.	Art. 60 – para 2 – subpara 1a (new)	By 31 March of the following financial year, the Board's Accounting Officer shall forward the report on budgetary and financial management to the members of the Board**, and to the Commission, the European Parliament and the Council**.
1035.	Art. 60 – para 3	3. By 31 March of each year, the **Chair** shall transmit to the European Parliament, the Council and the Commission the Board's provisional accounts for the preceding financial year.
1036.	Art. 60 – para 4	4. On receipt of the Court of Auditors' observations on the Board's provisional accounts, the **Chair**, acting on his/**her** own responsibility, shall draw up the Board's final accounts and shall send them to the Board in its plenary session, for approval.
1037.	Art. 60 – para 5	5. The **Chair** shall, following the approval by the Board, by 1 July following each financial year, send the final accounts to the European Parliament, the Council, the Commission, and the Court of Auditors.
1038.	Art. 60 – para 6	6. The **Chair** shall send the Court of Auditors a reply to its observations by 30 September.
1039.	Art. 60 – para 7	7. The final accounts shall be published in the Official Journal of the European Union by 15 November of the following year.
1040.	Art. 60 – para 8	8. The Board, in its plenary session, shall give discharge to the **Chair** in respect of the implementation of the budget.
1041.	Art. 60 – para 9	9. The **Chair** shall submit **at the request of either** the European Parliament **or the Council**, any information **referred** to **in** the Board's accounts **to them, subject to the confidentiality requirements established by this Regulation**.
1042.	Art. 60 – para 9a (new)	[…]
1043.	Art. 60 – para 9b (new) – introductory part	[…]
1044.	Art. 60 – para 9b (new) – point a	[…]
1045.	Art. 60 – para 9b (new) – point b	[…]

1046.		*Article 61*
1047.	Article 61 title	*Financial rules*
1048.	Art. 61 – intro – subpara 1	The Board shall, after consulting the Court of Auditors and the Commission, adopt internal financial provisions specifying, in particular, detailed procedure for establishing and implementing its budget in accordance with Articles 58 and 60.
1049.	Art. 61– intro – subpara 2	As far as is compatible with the particular nature of the Board, the financial provisions shall be based on the framework financial Regulation adopted for bodies set up under the TFEU in accordance with Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union.[12]
1050.		*Article 62*
1051.	Article 62 title	*Contributions to the administrative expenditures of the Board*
1052.	Art. 62 – para 1	1. Entities referred to in Article 2 shall contribute to **part I of** the budget of the Board in accordance with this Regulation and the delegated acts on contributions adopted pursuant to paragraph 5 of this Article.
1053.	Art. 62 – para 1 – point a	[…]
1054.	Art. 62 – para 1 – point b	[…]
1055.	Art. 62 – para 1 – point c	[…]
1056.	Art. 62 – para 2	2. The amounts of the contributions shall be fixed at such a level as to ensure that the revenue in respect thereof is in principle sufficient for **part I of** the budget of the Board to be balanced each year.
1057.	Art. 62 – para 3	3. The Board shall determine **and raise,** in accordance with the delegated acts referred to in paragraph 5, the contributions due by each entity referred to in Article 2 in a decision addressed to the entity concerned. The Board shall apply procedural, reporting and other rules ensuring that contributions are fully and timely paid.
1058.	Art. 62 – para 3 – subpara 1a (new)	[…]
1059.	Art. 62 – para 4	4. The amounts raised in accordance with paragraphs 1, 2, 3 shall only be used for the purposes of this Regulation.

(2) 12 OJ L 298, 26.10.2012. p. 1.

1060.	Art. 62 – para 5	5. The Commission shall be empowered to adopt delegated acts on contributions in accordance with Article 82 in order to:
1061.	Art. 62 – para 5 – point a	(a) determine the type of contributions and the matters for which contributions are due, the manner in which the amount of the contributions is calculated, the way in which they are to be paid;
1062.	Art. 62 – para 5 – point b	(b) specify registration, accounting, reporting and other rules referred to in paragraph 3 necessary to ensure that the contributions are fully and timely paid;
1063.	Art. 62 – para 5 – point c	[…]
1064.	Art. 62 – para 5 – point d	(d) determine the annual contributions necessary to cover the administrative expenditure of the Board before it becomes fully operational.
1065.		*Article 63*
1066.	Article 63 title	*Anti–fraud measures*
1067.	Art. 63 – para 1	1. For the purposes of combating fraud, corruption and any other unlawful activity under Regulation (EC) No **883/2013**, within six months from the day the Board becomes operational, it shall accede to the Interinstitutional Agreement of 25 May 1999 concerning internal investigations by European Anti–fraud Office OLAF and shall immediately adopt appropriate provisions applicable to all staff of the Board using the template set out in the Annex to that Agreement.
1068.	Art. 63 – para 2	2. The Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over the beneficiaries, contractors and subcontractors who have received ▌ funds from the Board.
1069.	Art. 63 – para 3	3. OLAF may carry out investigations, including on–the–spot checks and inspections with a view to establishing whether there has been fraud, corruption or other illegal activity affecting the financial interests of the Union in connection with a contract funded by the Board in accordance with the provisions and procedures laid down in Regulation (EC) No 1073/1999 and Regulation (Euratom, EC) No 2185/96.
1070.		Chapter 2
1071.		*The Single Bank Resolution Fund*
1072.		SECTION 1
1073.		CONSTITUTION OF THE FUND
1074.		*Article 64*
1075.	Article 64 title	*General provisions*
1076.	Art. 64 – para 1	1. The Single Bank Resolution Fund is hereby established. It shall be filled in accordance with the rules on transferring the funds raised at national level towards the Fund as laid down in the agreement.

1077.	Art. 64 – para 2	2. The Board shall use the Fund only for the purpose of ensuring the efficient implementation of the resolution tools and powers specified in Part II, Title I and in accordance with the resolution objectives and the principles governing resolution set out in Articles 12 and 13. Under no circumstances shall the Union budget nor the national budgets be held liable for expenses or losses of the Fund.
1078.	Art. 64 – para 3	3. The owner of the Fund shall be the Board.
1078 a.		**3a. Contributions referred to in Articles 65 to 67 shall be raised from entities referred to in Article 2 by the national resolution authorities and transferred to the Fund in accordance with the Agreement.**
1079.		*Article 64(a)*
1080.	Art. 64a (new) – title	*Requirement to establish resolution financing arrangements*
1081.	Art. 64a (new) – para 1	Participating Member States shall establish financing arrangements as defined in Article 91 of the Directive […] and in accordance with this Regulation.
1082.		*Article 65*
1083.	Article 65 title	*Target funding level*
1084.	Art. 65 – para 1	1. **8 years as from 1 January 2016 or, otherwise as from the date when this provision is applicable by virtue of Article 88(6)** the available financial means of the Fund shall reach at least 1% of the amount of **covered** deposits of all credit institutions authorised in **all** the participating Member States.
1085.	Art. 65 – para 2	2. During the initial period of time referred to in paragraph 1, contributions to the Fund calculated in accordance with Article 66, and raised in accordance with **Article 64(3a)** shall be spread out in time as evenly as possible until the target level is reached *but with due account of the phase of a business cycle and the impact pro-cyclical contributions may have on the financial position of contributing institutions*.
1086.	Art. 65 – para 3	3. The Board shall extend the initial period of time for a maximum of four years in case the Fund makes cumulated disbursements superior to 0,5% of the total amount of deposits referred to in paragraph 1 **and when the criteria of the delegated act referred in paragraph 5(c) are met**.
1087.	Art. 65 – para 4	4. If, after the initial period of time referred to in paragraph 1, the available financial means diminish below the target level specified in paragraph 1, contributions calculated in accordance with Article 66 shall be raised until the target level is reached. *After the target level has been reached for the first time where the available financial means have subsequently been reduced to less than two thirds of the target level, the regular contribution shall be set at a level allowing for reaching the target level within six years.*

		The regular contribution shall take due account of the phase of a business cycle, and the impact procyclical contributions may have when setting annual contributions in the context of this provision.
1088.	Art. 65 – para 5	5. The Commission shall be empowered to adopt delegated acts in accordance with Article 82 to specify the following:
1089.	Art. 65 – para – point a	(a) criteria for the spreading out in time of the contributions to the Fund calculated under paragraph 2;
1090.	Art. 65 – para – point b	[...]
1091.	Art. 65 – para – point c	(c) criteria for determining the number of years by which the initial period referred to in paragraph 1can be extended under paragraph 3;
1092.	Art. 65 – para – point d	(d) criteria for establishing the annual contributions provided for in paragraph 4.
1093.		*Article 66*
1094.	Article 66 title	*Ex–ante Contributions*
1095.	Art. 66 – para 1 – subpara 1	1. The individual contribution of each institution shall be raised at least annually and shall be calculated pro–rata to the amount of its liabilities (excluding own funds) less covered deposits, with respect to the *aggregate* liabilities, (excluding own funds) less covered deposits, of all the institutions authorised in the territories of **all** the participating Member States.
1096.	Art. 66 – para 1 – subpara 2	[...]
1097.	Art. 66 – para 1a (new) – subpara 1	1a. Each year **the Board, after consulting the ECB or the national competent authority and in close cooperation with the** national resolution authorities shall calculate the individual contributions to ensure that the contributions due by all the institutions authorised in the territories of **all** the participating Member States shall **not exceed 12,5%** of the target level.
1098.	Art. 66 – para 1a (new) – subpara 2 – introductory part	Each year the calculation of the contributions for individual institutions shall be based on:
1099.	Art. 66 – para 1a (new) – subpara 2 –	(a) A flat contribution, that is pro–rata based on the amount of an institution's liabilities excluding own funds and covered deposits, with respect to the total liabilities, excluding own funds and covered deposits, of

	point a	all the institutions authorised in the territories of the participating Member States; and
1100.	Art. 66 – para 1a (new) – subpara 2 – point b	(b) A risk adjusted contribution, that shall be based on the criteria set out in Article 94(7) of Directive[..], taking into account the principle of proportionality, without creating distortions between banking sector structures of the Member States.
1101.	Art. 66 – para 1a (new) – subpara 3	The relation between the flat contribution and the risk–adjusted contributions shall take into account a balanced distribution of contributions across different types of banks.
1102.	Art. 66 – para 1a (new) – subpara 4	In any case, the aggregate amount of individual contributions by all the institutions authorised in the territories of **all** the participating Member States, calculated under letters (a) and (b), shall not exceed annually the **12,5%** of the target level.
1103.	Art. 66 – para 2	2. The available financial means to be taken into account in order to reach the target funding level specified in Article 65 may include payment commitments which are fully backed by collateral of low risk assets unencumbered by any third party rights, at the free disposal and earmarked for the exclusive use by the Board for the purposes specified in Article 71(1). The share of these irrevocable payment commitments *shall* not exceed 30 % of the total amount of contributions raised in accordance with paragraph 1.
1104.	Art. 66 – para 2a (new)	***2a.*** **The duly perceived contributions of each entity referred to in Article 2 shall not be reimbursed to these entities.**
1105.	Art. 66 – para 2b (new)	***2b. Where participating Member States have already established national resolution financing arrangements, they may provide that the national resolution financing arrangements use their available financial means, collected from institutions*** **before the entry into force of [BRRD],** ***to compensate institutions for the ex–ante contributions which those institutions may be required to pay into the Fund. Such restitution shall be without prejudice to the obligations of Member States under*** **[DGSD].**
1106.	Art. 66 – para 3	3. The delegated acts specifying the notion of adjusting contributions in proportion to the risk profile of institutions, adopted by the Commission under article 94(7) of Directive [..], shall be applied.
1107.	Art. 66 – para 3 – point a	[...]
1108.	Art. 66 – para 3 – point b	[...]
1109.	Art. 66 – para 3 – point c	[...]

1110.	Art. 66 – para 3a (new)	3a. The Council, acting on a proposal from the Commission, shall**, *within the framework of the delegated act referred to in paragraph 3,*** adopt implementing acts to determine the conditions of implementation of ***paragraphs 1, 1a, and 2***, and in particular in relation to:
1111.	Art. 66 – para 3a – point a (new)	(a) The application of the methodology for the calculation of individual contributions;
1112.	Art. 66 – para 3a – point b (new)	(b) The practical modalities of allocating institutions to the risk factors specified in the delegated act.
1113.		*Article 67*
1114.	Article 67 title	*Extraordinary ex post contributions*
1115.	Art. 67 – para 1	1. Where the available financial means are not sufficient to cover the losses, costs or other expenses incurred by the use of the Fund **in resolution actions**, extraordinary ex post contributions from the institutions authorised in the territories of participating Member States shall be raised, in order to cover the additional amounts. These extraordinary contributions shall be **calculated and** allocated between institutions in accordance with the rules set out in Articles 65 and 66. Total amount of ex post contributions per year shall not exceed three times the amount of annual contributions.
1116.	Art. 67 – para 2	2. The Board shall**, on its own initiative after consulting the national resolution authority or upon proposal by a national resolution authority,** entirely or partially exempt in accordance with the delegated acts referred to in paragraph 3, an institution from the obligation to pay ex post contributions in accordance with paragraph 1 *if it is necessary to protect its financial position*. Such exemption shall not be granted for a longer period than 6 months but may be renewed on request of the institution. *The contribution shall be made later at a point in time when the payment no longer jeopardises the institution's financial position.*
1117.	Art. 67 – para 2 – subpara 1a (new)	[…]
1118.	Art. 67 – para 3	3. The Commission shall be empowered to adopt delegated acts in accordance with Article 82 to specify the circumstances and conditions under which an entity referred to in Article 2 may be partially or entirely exempted from ex post contributions under paragraph 2.

1119.		*Article 68*
1120.	Article 68 title	*Voluntary borrowing between financing arrangements*
1121.	Art. 68 – para 1	1. The Board shall decide to make a request to voluntarily borrow for the Fund from resolution financing arrangements within non–participating Member States, in the event that:
1122.	Art. 68 – para 1 – point a	(a) the amounts raised in accordance with Article 66 do not cover the losses, costs or other expenses incurred by the use of the Fund in relation to resolution actions;
1123.	Art. 68 – para 1 – point b	(b) the extraordinary ex post contributions foreseen in Article 67 are not immediately accessible;
1124.	Art. 68 – para 1 – point c	(c) the alternative funding means foreseen in Article 69 are not immediately accessible on reasonable terms.
1125.	Art. 68 – para 2	2. Those resolution financing arrangements shall decide on such a request in accordance with Article 97 of Directive [ ]. The borrowing conditions shall be subject to paragraphs 3a, 3b and 3c of Article 97 of Directive [ ].
1126.	Art. 68 – para 2a (new)	2a. The Board may decide to lend to other resolution financing arrangements within non–participating Member States if a request is made in accordance with Article 97 of Directive [ ]. The lending conditions shall be subject to paragraphs 3a, 3b and 3c of Article 97 of Directive [ ].
1127.		*Article 69*
1128.	Article 69 title	*Alternative funding means*
1129.	Art. 69 – para 1	1. The Board may contract for the Fund borrowings or other forms of support from those institutions, financial institutions or other third parties, which offer better financial terms and at the most appropriate time so as to optimize the cost of funding and preserve its reputation in the event that the amounts raised in accordance with Articles 66 and 67 are not immediately accessible or do not cover the expenses incurred by the use of the Fund in relation to resolution action**s**.
1130.	Art. 69 – para 1 – subpara 1a (new)	[…]
1131.	Art. 69 – para 2	2. The borrowing or other forms of support referred to in paragraph 1 shall be fully recouped in accordance with **Articles 65 to 67** within the maturity period of the loan.
1132.	Art. 69 – para 3	3. Any expenses incurred by the use of the borrowings specified in paragraph 1 shall be borne by the Part II of the budget of the Board and not by the Union budget or the participating Member States.
1132	Art. 69a	*Article 69a*

a.	(new)	*Access to financial facility* **The** Board shall contract for the Fund **financial arrangements, including, where possible,** public **financial arrangements, regarding** the immediate availability of **additional** financial means to be used in accordance with Article 71, where the amounts raised or available in accordance with Articles 66 and 67 are not sufficient **to meet the Funds' obligations**.
1133.		SECTION 2
1134.		ADMINISTRATION OF THE FUND
1135.		*Article 70*
1136.	Article 70 title	*Investments*
1137.	Art. 70 – para 1	1. The Board shall administer the Fund in accordance with this Regulation and delegated acts adopted under paragraph 4 of this Article.
1138.	Art. 70 – para 2	2. The amounts received from an institution under resolution or a bridge institution, the interests and other earnings on investments and any other earnings shall benefit only the Fund.
1139.	Art. 70 – para 3	3. The Board shall ***have a prudent and safe investment*** strategy defined in the delegated acts adopted under paragraph 4 of this Article, **and** shall invest the amounts held in the Fund in obligations of the-Member States or intergovernmental organisations, or in highly liquid assets of high credit worthiness, taking into account the delegated act referred to in Article 460 of the CRR as well as other relevant provisions of that Regulation. Investments shall be sufficiently **sectorally,** geographically and proportionally diversified. The return on those investments shall benefit the Fund.
1140.	Art. 70 – para 4	4. The Commission shall be empowered to adopt delegated acts on the detailed rules for the administration of the Fund and **general principles and criteria** for its investment strategy, in accordance with the procedure set out in Article 82.
1141.		SECTION 3
1142.		USE OF THE FUND
1143.		*Article 71*
1144.	Article 71 title	*Mission of the Fund*
1145.	Art. 71 – para 1	1. Within the resolution scheme, when applying the resolution tools to entities referred to in Article 2, the Board may use the Fund **only to the extent necessary to ensure the effective application of the resolution tools** for the following purposes:
1146.	Art. 71 – para 1 – point d	(a) to guarantee the assets or the liabilities of the institution under resolution, its subsidiaries, a bridge institution or an asset management vehicle;
1147.	Art. 71 – para 1 –	(b) to make loans to the institution under resolution, its subsidiaries, a bridge institution or an asset management vehicle;

	point e	
1148.	Art. 71 – para 1 – point f	(c) to purchase assets of the institution under resolution;
1149.	Art. 71 – para 1 – point g	(d) to **make contributions** to a bridge institution **and** an asset management vehicle;
1150.	Art. 71 – para 1 – point h	(e) to pay compensation to shareholders or creditors if, following an evaluation pursuant to Article 17(5) *they have incurred greater losses that they would have incurred,* -following a valuation pursuant to Article 17(16), in a winding up under normal insolvency proceedings;
1151.	Art. 71 – para 1 – point i	(f) to make a contribution to the institution under resolution in lieu of the contribution which would have been achieved by the write down of certain creditors, when the bail–in tool is applied and decision is made to exclude certain creditors from the scope of bail–in in accordance with Article 24(**5**);
1152.	Art. 71 – para 1 – point j	(g) to take any combination of the actions referred to in points (a) to (f).
1153.	Art. 71 – para 1 – subpara 1a (new)	[…]
1154.	Art. 71 – para 2	2. The Fund may be used to take the actions referred to in points (a) to (g) of paragraph 1 also with respect to the purchaser in the context of the sale of business tool.
1155.	Art. 71 – para 3	3. The Fund shall not be used directly to absorb the losses of an entity referred to in Article 2 or to recapitalise an entity referred to in Article 2. In the event that the use of the **Fund** for the purposes in paragraph 1 indirectly results in part of the losses of an entity referred to in Article 2 being passed on to the Fund, the principles governing the use of the **Fund** set out in Article 24 shall apply.
1156.	Art. 71 – para 4	4. The Board may not hold the capital contributed to in accordance with point (f) of paragraph 1 for a period exceeding 5 years.
1157.		*Article 71a*
1158.	Art. 71a (new) – title	*Use of the Fund*
1159.	Art. 71a (new) – para 1	The use of the Fund shall be contingent upon the Agreement where the participating Member States agree to transfer the contributions that they raise at national level in accordance with the BRRD and SRM Regulation to the Fund and shall be in accordance with the principles laid down in that agreement.
1160.	Art. 71a (new) – para 2	Accordingly, until the Fund reaches the target funding level as defined in Article 65, but until no later than **8 years** after the date of application of this Article, the Board shall use the Fund in accordance with principles founded on a division of the Fund into national compartments

		corresponding to each participating Member State, as well as on a progressive merger of the different funds raised at national level to be allocated to national compartments of the Fund, as laid down in the Agreement.
1161.		*Article 72*
1162.	Article 72 title	*Mutualisation of national financing arrangements in the case of group resolution involving institutions in non–participating Member States*
1163.	Art. 72 – intro	In the case of a group resolution involving institutions **established** in one or more participating Member States on the one hand, and institutions **established** in one or more non–participating Member States on the other hand, the Fund shall contribute to the financing of the group resolution in accordance with the provisions laid down in Article 98(2) to (3b) of Directive [ ].
1164.		*Article 73*
1165.	Article 73 title	*Use of deposit guarantee schemes in the context of resolution*
1166.	Art. 73 – para 1	1. Participating Member States shall ensure that, when the Board takes resolution actions, and provided that these actions ensure that depositors continue having access to their deposits, the deposit guarantee scheme to which the institution is affiliated shall be liable for the amounts specified in Article 99(1) and (4) of Directive [DGSD]. The relevant deposit guarantee scheme shall subrogate to the rights and obligations of covered depositors in liquidation proceedings for an amount equal to their payment.
1167.	Art. 73 – para 2	2. The determination of the amount by which the deposit guarantee scheme is liable in accordance with paragraph 1 shall comply with the conditions established in Article 17.
1168.	Art. 73 – para 3	3. Before deciding, in accordance with paragraph 1 of this Article, the amount by which the deposit guarantee scheme is liable, the Board shall consult the **concerned designated authority within the meaning of Article 2(1)(r) [DGSD]**, having full regard to the urgency of the matter.
1169.	Art. 73 – para 4	*4. Where eligible deposits with an institution under resolution are transferred to another entity through the sale of business tool or the bridge institution tool, the depositors have no claim under Directive* **[DGSD]** *against the deposit guarantee scheme in relation to any part of their deposits with the entity under resolution that are not transferred, provided that the amount of funds transferred is equal to or more than the aggregate coverage level laid down in* **Article 5** *of Directive* **[DGSD].** *Notwithstanding the previous paragraphs, if available financial means of*

		the DGS are used in accordance with this Article, and subsequently are reduced to less than two thirds of the target level, the regular contribution to DGS shall be set at a level allowing for reaching the target level within six years. The regular contribution shall take due account of the phase of a business cycle, and the impact procyclical contributions may have when setting annual contributions in the context of this provision. *In all cases, the liability of the DGS shall not be greater than the amount equal to 50% of the target funding level prescribed for the DGS* **in Article 9(2) of [DGSD]**. *In any circumstances, the deposit guarantee scheme's participation under this Regulation shall not exceed the losses it would have incurred in a winding up under normal insolvency proceedings.*
1170.		TITLE VI
1171.		OTHER PROVISIONS
1172.		*Article 74*
1173.	Article 74 title	*Privileges and Immunities*
1174.	Art. 74 – intro	The Protocol (No 7) on the Privileges and Immunities of the European Union annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union shall apply to the Board and its staff.
1175.		*Article 75*
1176.	Article 75 title	*Language arrangements*
1177.	Art. 75 – para 1	1. Council Regulation No 1 determining the languages to be used by the European Economic Community shall apply to the Board.
1178.	Art. 75 – para 2	2. The Board shall decide on the internal language arrangements for the Board.
1179.	Art. 75 – para 3	3. The Board may decide which of the official languages to use when sending documents to Union institutions or bodies.
1180.	Art. 75 – para 4	4. The Board may agree with each national resolution authority on the language or languages in which the documents to be send to or by the national resolution authorities shall be drafted.
1181.	Art. 75 – para 5	5. The translation services required for the functioning of the Board shall be provided by the Translation Centre of the bodies of the European Union.
1182.		*Article 76*
1183.	Article 76 title	Staff
1184.	Art. 76 – para 1	1. The Staff Regulations, the Conditions of Employment of Other Servants and the rules adopted jointly by the Union institutions, for the

		purpose of applying them shall apply to the staff of the Board**.** **By exception, the Chair, the Vice-Chair and the four members referred to in Article 39(1)(b) shall, respectively, be on a par with a Vice-President, Judge and Registrar of the Court of Justice of the European Union regarding emoluments and pensionable age, as defined under Regulation 422/67; they shall not be subject to a maximum retirement age. For aspects not covered by this Regulation or by Regulation 422/67, the Staff Regulations and the Conditions of Employment of Other Servants shall apply by analogy.**
1185.	Art. 76 – para 2	2. The Board, in agreement with the Commission, shall adopt the necessary implementing measures, in accordance with the arrangements provided for in Article 110 of the Staff Regulations.
1186.	Art. 76 – para 3 (new)	3. In respect of its staff, the Board shall exercise the powers conferred on the appointing authority by the Staff Regulations and on the authority entitled to conclude contracts by the Conditions of Employment of Other Servants**.**
1187.		[…]
1188.	Art. 76a (new) – title	
1189.	Art. 76a (new) – para 1	[…]
1190.	Art. 76a (new) – para 2	[…]
1191.	Art. 76a (new) – para 3	[…]
1192.		*Article 77*
1193.	Article 77 title	*Staff exchange*
1194.	Art. 77 – para 1	1. The Board may make use of seconded national experts or other staff not employed by the Board.
1195.	Art. 77 – para 2	2. The Board in its plenary session shall adopt appropriate decision laying down rules on the exchange and secondment of staff from and among the national resolution authorities to the Board.
1196.	Art. 77 – para 3	3. The Board may establish internal resolution teams composed of ***its own staff*** **and** staff of the national resolution authorities, including observers from non–participating Member States national resolution authorities, where appropriate. **3a.** ***Where the Board establishes internal resolution teams as provided for in paragraph 3, it shall appoint coordinators of those teams from its own staff. In accordance with Article 47(3), the coordinators may be invited as***

		observers to attend the meetings of the executive session of the Board in which the members appointed by the respective Member States participate in accordance with Article 49(2) and (3).
1196a		**Article 77a** **Internal committees** ***The Board may establish internal committees to provide it with advice and guidance to the discharge of its functions under this Regulation.***
1196b.		**Article 77b** Appeal Panel 1. The Board shall establish an Appeal Panel for the purposes of deciding on appeals submitted in accordance with paragraph 3. 2. The Appeal Panel shall be composed of five individuals of high repute, from the Member States and having a proven record of relevant knowledge and professional experience, including resolution experience, to a sufficiently high level in the fields of banking or other financial services, excluding current staff of the Board, as well as current staff of resolution authorities or other national or Union institutions, bodies, offices and agencies who are involved in the carrying out of the tasks conferred on the Board by this Regulation. The Appeal Panel shall have sufficient resources and expertise to provide expert legal advice on the legality of the Board's exercise of its powers Members of the Appeal Panel and two alternates shall be appointed by the Board for a term of five years, which may be extended once, following a public call for expressions of interest published in the Official Journal of the European Union. They shall not be bound by any instructions. 3. Any natural or legal person, including resolution authorities, may appeal against a decision of the Board referred to in Articles 8(8), 9, 10(1), 36 to 37b, 62(3), 67 **and 80(3)** which is addressed to that person, or which is of direct and individual concern to that person. The appeal, together with a statement of grounds, shall be filed in writing at the Appeal Panel within six weeks of the date of notification of the decision to the person concerned, or, in the absence of a notification, of the day on which the decision came to the knowledge of the latter. 4. The Appeal Panel shall decide upon the appeal within one month after the appeal has been lodged. The Appeal Panel shall decide on the basis of a majority of at least three of

		its five members. 5. The members of the Appeal Panel shall act independently and in the public interest. For that purpose, they shall make a public declaration of commitments and a public declaration of interests indicating any direct or indirect interest which might be considered prejudicial to their independence or the absence of any such interest. 6. An appeal lodged pursuant to paragraph 3 shall not have suspensive effect. However, the Appeal Panel may, if it considers that circumstances so require, suspend the application of the contested decision. 7. If the appeal is admissible, the Appeal Panel shall examine whether it is well–founded. It shall invite the parties to the appeal proceedings to file observations on its own notifications or on communications from the other parties to the appeal proceedings, within specified time limits. Parties to the appeal proceedings shall be entitled to make oral representations. 8. The Appeal Panel may confirm the decision taken by the Board, or remit the case to the latter. The Board shall be bound by the decision of Appeal Panel and it shall adopt an amended decision regarding the case concerned. 9. The decisions of the Appeal Panel shall be reasoned and notified to the parties. 10. The Appeal Panel shall adopt and make public its rules of procedure.
1197.		**Article 77c**
1198.	Art. 77a (new) – title	*Actions before the Court of Justice of the European Union*
1199.	Art. 77a (new) – para 1	1. Proceedings may be brought before the CJEU in accordance with Article 263 **TFEU** contesting a decision taken by the Appeal Panel, or in cases where there is no right of appeal before the Appeal Panel, by the Board.
1200.	Art. 77a (new) – para 2	2. Member States and the Union institutions, as well as any natural or legal person, may institute proceedings before the Court of Justice of the European Union against decisions of the Board, in accordance with Article 263 TFEU.
1201.	Art. 77a (new) – para 3	3. In the event that the Board has an obligation to act and fails to take a decision, proceedings for failure to act may be brought before the Court of Justice of the European Union in accordance with Article 265 TFEU.
1202.	Art. 77a	4. The Board shall be required to take the necessary measures to comply

	(new) – para 4	with the judgment of the Court of Justice of the European Union.
1203.		*Article 78*
1204.	Article 78 title	*Liability of the Board*
1205.	Art. 78 – para 1	1. The Board's contractual liability shall be governed by the law applicable to the contract in question.
1206.	Art. 78 – para 2	2. The Court of Justice of the European Union shall have jurisdiction to give judgement pursuant to any arbitration clause contained in a contract concluded by the Board.
1207.	Art. 78 – para 3	3. In the case of non–contractual liability, the Board shall, in accordance with the general principles common to the laws concerning the liability of public authorities of the Member States, make good any damage caused by it or by its staff in the performance of their duties, in particular their resolution functions, including acts and omissions in support of foreign resolution proceedings.
1208.	Art. 78 – para 4	4. The Board shall compensate a national resolution authority for the damages which it has been **ordered** to pay by a national court, or which it has, in agreement with the Board, **undertaken** to pay **pursuant to** an amicable settlement, which are the consequences of an act or omission committed by that national resolution authority in the course of any resolution under this Regulation. **This obligation shall not apply where that** act or omission constituted **an infringement** of this Regulation, **of another provision of Union law, of a** decision **of the Council, the Commission** or of a decision of the Board, **committed intentionally** or **with** manifest and serious error of judgement.
1209.	Art. 78 – para 5	5. The Court of Justice of the European Union shall have jurisdiction in any dispute related to paragraphs 3 and 4. Proceedings in matters arising from non–contractual liability shall be barred after a period of five years from the occurrence of the event giving rise thereto.
1210.	Art. 78 – para 6	6. The personal liability of its staff towards the Board shall be governed by the provisions laid down in the Staff Regulations or Conditions of Employment applicable to them.
1211.		*Article 79*
1212.	Article 79 title	*Professional secrecy and exchange of information*
1213.	Art. 79 – para 1	1. Members of Board, **the Vice-Chair** staff of the Board and staff exchanged with or seconded by participating Member States carrying out resolution duties-shall be subject to the requirements of professional secrecy pursuant to Article 339 TFEU and the relevant provisions in Union legislation, even after their duties have ceased. **They shall in particular be prohibited from disclosing confidential information received during the course of their professional activities in connection with their functions under this Regulation, to any person or authority, unless it is in the exercise of their functions under this Regulation in summary or collective form such that entities referred to in Article 2 cannot be**

		identified or with the express and prior consent of the authority or the entity which provided that information. **Information covered by professional secrecy shall not be disclosed to another public or private entity except where such disclosure is due for the purpose of legal proceedings.**
1214.	Art. 79 – para 2	2. The Board shall ensure that individuals who provide any service, directly or indirectly, permanently or occasionally, related to the discharge of its duties, ***including officials and other persons authorised by the Board or appointed by the national resolution authorities to conduct on–site inspections,*** are subject to professional secrecy requirements equivalent to those referred to in paragraph 1.
1215.	Art. 79 – para 2a (new)	***2a. The professional secrecy requirements referred to in*** **paragraph 1 shall** ***also apply to observers who attend the Board's meetings.***
1216.	Art. 79 – para 2b (new)	[…]
1217.	Art. 79 – para 3	3. **The Board shall take the necessary measures to ensure the safe handling and processing of confidential information.** **3a. Before any information is disclosed, the Board shall ensure that it does not contain confidential information,** *in particular,* **by** *assessing the effects that the divulgation could have on the public interest as regards financial, monetary or economic policy and the commercial interests of natural and legal persons, the purpose of inspections, investigations and audits.* **The procedure for checking the effects of disclosure of information shall ensure that there is a specific assessment of the effects of any disclosure of the contents and details of resolution plans provided for in Articles 7 and 7a, the result of any assessment carried out under Article 8 or the resolution scheme referred to in Article 16.** **3b. This Article shall not prevent the Board, the Council, the Commission, the ECB, the national resolution authorities or the national competent authorities, including their employees and experts, from sharing information with each other and with competent ministries, central banks, deposit guarantee schemes, authorities responsible for normal insolvency proceedings, resolution and competent authorities from non-participating Member States EBA, or, subject to Article 31, third-country authorities that carry out functions equivalent to those of a resolution authority, or to a potential acquirer for the purposes of planning or carrying out a resolution action.**
1218.		*Article 79a*
1219.	Art. 79a (new) – title	*Data protection*

1220.	Art. 79a (new) – para 1	This Regulation shall be without prejudice to the obligations of Member States relating to their processing of personal data under Directive 95/46/EC or the obligations of the Board or of the Council and the Commission relating to its processing of personal data under Regulation (EC) No 45/2001 when fulfilling its responsibilities.
1221.		*Article 80*
1222.	Article 8 title	*Access to documents*
1223.	Art. 80 – para 1	1. Regulation (EC) No 1049/2001 of the European Parliament and of the Council [13] shall apply to documents held by the Board.
1224.	Art. 80 – para 2	2. The Board shall, within six months of the date of its first meeting, adopt the **practical measures** for applying Regulation (EC) No 1049/2001.
1225.	Art. 80 – para 3	3. Decisions taken by the Board under Article 8 of Regulation (EC) No 1049/2001 may be the subject of a complaint to the Ombudsman or of proceedings before the Court of Justice of the European Union, following an appeal to the Appeal **Panel**, **referred to Article 77b**, as appropriate, under the conditions laid down in Articles 228 and 263 TFEU respectively.
1226.	Art. 80 – para 4	[…]
1227.	Art. 80 – para 4a (new)	***4a. Persons who are the subject of the Board's decisions shall be entitled to have access to the Board's file, subject to the legitimate interest of other persons in the protection of their business secrets. The right of access to the file shall not extend to confidential information*** **or internal preparatory document of the Board.**
1228.		*Article 81*
1229.	Article 81 title	*Security rules on the protection of classified and sensitive non–classified information*
1230.	Art. 81 – intro	The Board shall apply the security principles contained in the Commission's security rules for protecting European Union Classified Information (EUCI) and sensitive non–classified information, as set out in the annex to Decision 2001/844/EC, ECSC, Euratom. Applying the security principles shall include applying provisions for the exchange, processing and storage of such information.
1231.		*Article 81a*
1232.	Art. 81a (new) – title	*Court of Auditors*
1233.	Art. 81a (new) – para 1	1. The Court of Auditors shall produce a special report for each 12 month period, starting on 1 April each year.

(3) 13 Regulation (EC) N0 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L145, 31.5.2001, p. 43.

1234.	Art. 81a (new) – para 2	2. Each report shall examine whether:
1235.	Art. 81a (new) – para 2 – point a	(a) sufficient regard was had to economy, **efficiency and effectiveness with which the Fund has been used,** in particular the need to minimize the use of the Single Resolution Fund;
1236.	Art. 81a (new) – para 2 – point b	(b) the assessment of Single Resolution Fund aid was efficient **and** rigorous.
1237.	Art. 81a (new) – para 3	3. Each report under paragraph 1 shall be produced within 6 months of the end of the period to which the report relates.
1238.	Art. 81a (new) – para 4	4. Following the consideration of the final accounts prepared by the Board in accordance with Article 60, the Court of Auditors shall prepare a report on its findings by 1 December following each financial year. The Court of Auditors shall, in particular, report on **any contingent liabilities (whether for the Council, the Commission, the Board or otherwise) arising as a result of the performance by the Council, the Commission and the Board of their tasks under the Regulation.**
1239.	Art. 81a (new) – para 4 – point a	[…]
1240.	Art. 81a (new) – para 4 – point b	[…]
1241.	Art. 81a (new) – para 6	6. **The** European Parliament and the Council may request that the Court of Auditors examine **any** other **relevant** matters **falling within the competence set out in Article 287(4) TFEU.**
1242.	Art. 81a (new) – para 7	7. **The** report**s referred to in paragraphs 1 and 4** shall be **sent** to the European Parliament, the Council, the Commission and the Board and shall be made public without delay.
1243.	Art. 81a (new) – para 8 – subpara 1	8. Within 2 months of the date on which each report under paragraph 1 is made public the Commission shall provide a detailed written response which shall be made public.
1244.	Art. 81a (new) – para 8 – subpara 2	Within 2 months of the date on which each report under paragraph 4 is made public the Council, the Commission and the Board shall each provide a detailed written response which shall be made public.
1245.	Art. 81a (new) –para 9	9. The Court of Auditors shall have the power to obtain from the Council, the Commission and the Board any information relevant for fulfilling its tasks under this Article. The Council, the Commission and the Board shall provide any **relevant** information requested within such timeframe as may be specified by the Court of Auditors.

1246.	Art. 81a (new) – para 10	[…]
1247.		PART IV
1248.		POWERS OF EXECUTION AND FINAL PROVISIONS
1249.		*Article 82*
1250.	Article 82 title	*Exercise of the delegation*
1251.	Art. 82 – para 1	1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
1252.	Art. 82 – para 2	2. The delegation of powers shall be conferred for an indeterminate period of time from the date referred to in Article 88.
1253.	Art. 82 – para 2a (new)	***2a. The*** **Commission shall ensure** ***consistency between delegated acts adopted pursuant to this Regulation and delegated acts adopted pursuant to*** **Directive [BRRD].**
1254.	Art. 82 – para 3	3. The delegation of powers referred to in ***Article 16a(8),*** *Article* 62(5), *Article* 65(5), *Article* 67(3) and *Article* 70(4) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
1255.	Art. 82 – para 4	4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
1256.	Art. 82 – para 5	5. A delegated act adopted pursuant to ***Article 16a(8),*** *Article* 62(5), *Article* 65(5), *Article* 67(3) and *Article* 70(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of ***three*** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by ***three*** months at the initiative of the European Parliament or the Council.
1257.		*Article 83*
1258.	Article 83 title	*Review*
1259.	Art. 83 – para 1	1. By 31 December **2018**, and subsequently every three years thereafter, the Commission shall publish a report on the application of this Regulation, with a special emphasis on monitoring the potential impact on the smooth functioning of the internal market. That report shall evaluate:

1260.	Art. 83 – para 1 – point a	(a) the functioning of the SRM**,** its cost efficiency, as well as the impact of its resolution activities on the interests of the Union as a whole and on the coherence and integrity of the internal market in financial services, including its possible impact on the structures of the national banking systems within the Union, ***in comparison with other banking systems,*** and regarding the effectiveness of cooperation and information sharing arrangements within the SRM, between the SRM and the SSM, and between the SRM, national resolution authorities, competent authorities and resolution authorities of non–participating Member States;
1261.	Art. 83 – para 1 – point a – subpara 1a (new) – introductory part	***The report shall, in particular, assess whether:***
1262.	Art. 83 – para 1 – point a – subpara 1a (new) – point i	***(i) there is a need that the functions allocated by this Regulation to the Board, to the Commission*** **and to the Council,** ***be exercised exclusively by an independent Union institution*** **and, if so, whether any changes of the relevant provisions are necessary including at the level of primary law*;***
1263.	Art. 83 – para 1 – point a – subpara 1a (new) – point ii	***(ii) cooperation between the SRM, the SSM, ESRB, EBA, ESMA and EIOPA, and the other authorities which form part of the ESFS, is appropriate;***
1264.	Art. 83 – para 1 – point a – subpara 1a (new) – point iii	***(iii) the investment portfolio in accordance with Article 70 of this Regulation is made of sound and diversified assets;***
1265.	Art. 83 – para 1 – point a – subpara 1a (new) – point iv	***(iv) the link between sovereign debt and banking risk has been broken;***
1266.	Art. 83 – para 1 – point a – subpara 1a (new) – point v	**(v) the appropriateness of governance arrangements, including the division of tasks within the Board and the composition of the voting arrangements both in the executive and the plenary sessions of the Board and its relations with the Commission and the Council;**

1267.	Art. 83 – para 1 – point a – subpara 1a (new) – point vi	***(vi)*** **the** ***reference point for setting the target level for the Fund*** **is adequate** ***and in particular, whether covered deposits or total liabilities is a more appropriate basis*** **and if a minimum absolute amount for the Fund should be established in order to avoid volatility in the flow of financial means to the fund and to ensure the stability and adequacy of the financing of the Fund over time;**
1268.	Art. 83 – para 1 – point a – subpara 1a (new) – point vii	***(vii)*** **it is necessary to modify** ***the target funding level established for the Fund and the level of contributions*** **in order to ensure a level playing field within the Union*****.***
1269.	Art. 83 – para 1 – point a – subpara 2a (new)	[…]
1270.	Art. 83 – para 1 – point b	(b) the effectiveness of independence and accountability arrangements;
1271.	Art. 83 – para 1 – point c	(c) the interaction between the Board and *EBA*;
1272.	Art. 83 – para 1 – point d	(d) the interaction between the Board and the national resolution authorities of non–participating Member States and the effects of the SRM on these Member States***, and the interaction between the Board and third–country authorities as defined in Article 2(80) [BRRD]*****;**
127 2a	Art. 83 – para 1 – point da (new)	**(da) there are necessary steps to be taken in order to harmonise insolvency proceedings for failed institutions.**
1273.	Art. 83 – para 2	2. The report shall be forwarded to the European Parliament and to the Council. The Commission shall make accompanying proposals, as appropriate.
1274.	Art. 83 – para 2a (new)	***2a.*** **When the review of the Directive [BRRD] is undertaken, the Commission is invited to put forward, as appropriate,** ***a corresponding review of this Regulation.***
1275.		*Article 84*
1276.	Art. 84 – title	*Amendment to Regulation (EU) No 1093/2010*
1277.	Art. 84 – para 1 – introductory part	Regulation (EU) No 1093/2010 is amended as follows:

1278.	Art. 84 – para 1 – point 1	1. In Article 4 point (2) is replaced by the following:
1279.	Art. 84 – para 1 – point 1 Art. 4 – point 2	"(2) 'competent authorities' means:
1280.	Art. 84 – para 1 – point 1 Art. 4 – point 2 – point i	"(i) competent authorities as defined in point (40) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council, **including the European Central Bank with regard to matters relating to the tasks conferred on it by Regulation (EU) No 1024/2013, in** Directive 2007/64/EC, and as referred to in Directive 2009/110/EC;
1281.	Art. 84 – para 1 – point 1 Art. 4 – point 2 – point ii	(ii) with regard to Directives 2002/65/EC and 2005/60/EC, the authorities competent for ensuring compliance with the requirements of those Directives by credit and financial institutions;
1282.	Art. 84 – para 1 – point 1 Art. 4 – point 2 – point iii	(iii) with regard to deposit guarantee schemes, bodies which administer deposit–guarantee schemes pursuant to Directive 94/19/EC, or, where the operation of the deposit–guarantee scheme is administered by a private company, the public authority supervising those schemes pursuant to that Directive; and
1283.	Art. 84 – para 1 – point 1 Art. 4 – point 2 – point iv	**iv) with regard to BRRD and SRM Regulation, the resolution authorities, defined in Article 3 of BRRD, and the SRB, established by the SRM Regulation as well as the Council and the Commission when taking actions under Article 16 of the SRM Regulation, except where any of the above exercise discretionary powers or make policy choices.**
1284.	Art. 84 – para 1 – point 1 Art. 4 – point 2 – point v (new)	[…]

1285.	Art. 84 – para 2 – introductory part	2. In Article 25, the following paragraph is inserted:
1286.	Art. 84 – para 2 – subpara 1 Art. 25 – para 1a (new)	"1a. The Authority may organise and conduct peer reviews of the exchange of information and of the joint activities of the Board referred to in SRM Regulation and national resolution authorities of Member States non–participating in the SRM in the resolution of cross border groups to strengthen effectiveness and consistency in outcomes. To that end, the Authority shall develop methods to allow for objective assessment and comparison."
1287.	Art. 84 – para 3 – introductory part	3. In Article 40(6), the following third subparagraph is added:
1288.	Art. 84 – para 3 – introductory part Art. 46 – para 6 – subpara 2a (new)	"For the purpose of acting within the scope of Directive [**BBRD]**, the **Chair** of the ***Single*** Resolution Board shall be an observer to the Board of Supervisors."
1289.		*Article 85*
1290.	Article 85 title	*Replacement of national resolution financing arrangements*
1291.	Art 85 – intro	From the date of application referred to in **Article 88(2) and (6)**, the Fund shall be considered the resolution financing arrangement of the participating Member States under Title VII of Directive [ ].
1292.		*Article 86*
1293.	Article 86 title	*Headquarters Agreement and operating conditions*
1294.	Art. 86 – para 1	1. The necessary arrangements concerning the accommodation to be provided for the Board in the Member State where its seat is located and the facilities to be made available by that Member State, as well as the specific rules applicable in that Member State to the **Chair**, members of the Board in its plenary session, Board staff and members of their families shall be laid down in a Headquarters Agreement between the Board and that Member State, concluded after obtaining the approval of the Board in its plenary session and no later than 2 years after the entry into force of this Regulation.

1295.	Art. 86 – para 2	2. The Member State **where the Board's seat is located** shall provide the best possible conditions to ensure the proper functioning of the Board, including multilingual, European–oriented schooling and appropriate transport connections.
1296.		*Article 87*
1297.	Article 87 title	*Start of the Board's activities*
1298.	Art. 87 – para 1	1. The Board shall become fully operational by 1 January 2015.
1299.	Art. 87 – para 2	2. The Commission shall be responsible for the establishment and initial operation of the Board until the Board has the operational capacity to implement its own budget. For that purpose:
1300.	Art. 87 – para 2 – point a	(a) until the Chair takes up his**/her** duties following his**/her** appointment by the Council in accordance with Article 53, the Commission may designate a Commission official to act as interim Chair and exercise the duties assigned to the **Chair**;
1301.	Art. 87 – para 2 – point b	(b) by derogation from ***Article 46(1)(i)*** and until the adoption of a decision as referred to in ***Article 46(2)***, the interim **Chair** shall exercise the appointing authority powers;
1302.	Art. 87 – para 2 – point c	(c) the Commission may offer assistance to the Board, in particular by seconding Commission officials to carry out the activities of the agency under the responsibility of the interim **Chair** or the **Chair**;
1303.	Art. 87 – para 2 – point d	[...]
1304.	Art. 87 – para 3	3. The interim **Chair** may authorise all payments covered by appropriations entered in the Board's budget and may conclude contracts, including staff contracts.
1305.		*Article 88*
1306.	Article 88 title	*Entry into force*
1307.	Art. 88 – para 1	**1.** This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
1308.	Art. 88 – para 1a (new)	**2. With the exceptions set out in subparagraphs 3 to 5, it shall be applicable as from 1 January 2016.**
1309.	Art. 88 – para 1b (new)	**3. By derogation from paragraph 2, the provisions related to the powers of the Board to collect information and cooperate with the national resolutions authorities for the elaboration of resolution planning, under Articles 7, 7a and all other related provisions shall be applicable by the 1st of January 2015.**

1310.	Art. 88 – subpara 2	**4. By derogation from paragraph 2:** **- Articles 1 to 4 and 6,** **- Articles 27, 28** **- Part III Title 1, [Articles 38-44],** **-Articles 45, 46 paragraph 1(a), (b), (d) to (m), paragraph 2,** **- Article 47,** **- Article 48 paragraphs 1 and 3,** **- Article 49 paragraph -1 and paragraph 1,** **- Part III Title IV [Articles 52-53],** **- Part III Title V Chapter 1 [Articles 54-56, 58-63],** **- Part III Title VI [Article 74-81] with the exception of Article 77b and Article 77c, and** **- Part IV [Articles 82-84 and 86-87]** **shall apply from the entry into force.**
1311.	Art. 88 – subpara 3	**5. By derogation from paragraph 2, Articles 65(5), 66(3), 66(3a) and 67(3) that empower the Council to adopt implementing acts and the Commission to adopt delegated acts shall apply from 1st of November 2014.** **6. As of 1 January 2015, the Board shall send a monthly report approved in its plenary session to the EP, to the Council and to the Commission on whether the conditions for the transfer of contributions to the Single Resolution Fund have been met.** **If those reports show that the conditions for the transfer of contributions to the Single Resolution Fund have not been met, the application of the provisions referred to in paragraph 2 shall be postponed by one month each time, at the end of which a new report each time shall be elaborated by the Board.**
1312.	Art. 88 – subpara 4	This Regulation shall be binding in its entirety and directly applicable in all Member States.