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European Union

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## COVER NOTE

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	17 May 2016
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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No. Cion doc.:	C(2016) 2637 final
Subject:	CORRIGENDUM to COMMISSION DELEGATED REGULATION (EU) .../... of 4.2.2016 specifying further the circumstances where exclusion from the application of write-down or conversion powers is necessary under Article 44(3) of Directive 2014/59/EU of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms

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Delegations will find attached document C(2016) 2637 final.

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Encl.: C(2016) 2637 final



Brussels, 17.5.2016  
C(2016) 2637 final

### **CORRIGENDUM**

**to COMMISSION DELEGATED REGULATION (EU) .../... of 4.2.2016 specifying further the circumstances where exclusion from the application of write-down or conversion powers is necessary under Article 44(3) of Directive 2014/59/EU of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms**

{C(2016) 379 final}

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On page 17, in Article 9:

*for:*

### *Article 9*

*Exclusion on grounds of avoidance of a decrease in value under article 44 (3)(d) of Directive 2014/59/EU*

1. Resolution authorities may exclude a liability or class of liabilities from a bail-in where such exclusion would avoid value destruction so that the holders of the non-excluded liabilities would be better off than they would be if the former were bailed-in.

Resolution authorities may exclude a liability from a bail-in pursuant to Article 44(3)(d) of Directive 2014/59/EU where the benefit of exclusion for other creditors would outweigh their contribution to loss absorption and recapitalization did the exclusion not take place

2. In order to assess whether the condition in paragraph 1 is met, resolution authorities shall compare and evaluate the outcome for all creditors resulting from a potential bail-in and non-bail, in accordance with Article 36 (16) and Article 49 (5) of Directive 2014/59/EU.

*read:*

### *Article 9*

*Exclusion on grounds of avoidance of a decrease in value under article 44 (3)(d) of Directive 2014/59/EU*

1. Resolution authorities may exclude a liability or class of liabilities from a bail-in where such exclusion would avoid value destruction so that the holders of the non-excluded liabilities would be better off than they would be if the former were bailed-in.
2. In order to assess whether the condition in paragraph 1 is met, resolution authorities shall compare and evaluate the outcome for all creditors resulting from a potential bail-in and non-bail-in, in accordance with Article 36 (16) and Article 49 (5) of Directive 2014/59/EU.