



Council of the
European Union

Brussels, 4 April 2017
(OR. en)

8008/17

ECOFIN 258
EF 72

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Statement of the representatives of the Signatories of the Intergovernmental Agreement on the Transfer and Mutualisation of Contributions to the Single Resolution Fund (IGA), meeting in the margins of the Economic and Financial Committee, on the interpretation of Article 5(1) of the IGA

Delegations will find attached the statement by the representatives of the Signatories of the Intergovernmental Agreement on the Transfer and Mutualisation of Contributions to the Single Resolution Fund (IGA), on the interpretation of Article 5(1) of the IGA.

**Statement of the representatives of the Signatories of the
Intergovernmental Agreement on the Transfer and Mutualisation of
Contributions to the Single Resolution Fund (IGA), meeting in the margins
of the Economic and Financial Committee, on the interpretation of Article
5(1) of the IGA**

The representatives of the Signatories of the Intergovernmental Agreement on the Transfer and Mutualisation of Contributions to the Single Resolution Fund (IGA) endorse the interpretation of Article 5(1) of the IGA set out in the Common Understanding of the Single Resolution Board (SRB) and Commission services of 7 February 2017, as presented in the Annex.

Annex – SRB and Commission services Common Understanding on the interpretation of Article 5(1) of the Intergovernmental Agreement regarding the use of the Single Resolution Fund

Brussels, 7 February 2017

At any point in time a national compartment not concerned by resolution actions in its territory thus far has to remain equal to 100% of all contributions paid-in minus the currently applicable percentage of mutualisation (e.g. 40% in 2017) of all contributions paid-in up to that point.

Common understanding on the interpretation of Article 5(1) of the Intergovernmental Agreement regarding the use of the Single Resolution Fund

This non-paper summarises the common understanding of the Single Resolution Board (SRB) and the Commission services on the interpretation of Art. 5(1)(b) of the Intergovernmental Agreement (IGA) with regard to the determination of the amount of mutualised means in the national compartments during the transitional period.

A. Scene setter and summary

During the transitional period the SRF consists of different compartments corresponding to each participating Member State. Based on the required amount in a resolution scheme adopted in accordance with Article 18 SRMR the SRB will have recourse to the mutualised means in the national compartments of the Fund by applying the IGA.

In short, recourse shall be had to 60 % of mutualised means in the national compartments in 2017, with a further annual increase of this recourse by 6 2/3 percentage points (spread evenly per quarter) in subsequent years. As a result, the IGA stipulates that at the end of the year 2017 40% of the aggregate paid-in means of the compartments of those Member States that were not concerned by resolution actions in their territory must be preserved and therefore remains in the respective compartments. Following this logic, this aggregate paid-in amount will be adjusted until the compartments cease to exist by a further annual decrease of 6 2/3 percentage points.

B. IGA rationale

Article 5(1)(b) IGA provides for a sequential mutualisation of the national compartments during the transitional period, setting a total cap to possible recourses to all national compartments. This cap is set at a higher level for each year of the transitional period in such a manner that the national compartments will cease to exist at the end of the transitional period (Article 1 IGA).

The total cap for recourse to the national compartments provided for in Article 5(1)(b) IGA implies that in practice the SRB needs to ensure that any recourse to the Fund cannot lead to a depletion of Member States' compartments by resolution cases outside of their home banking system at any point in time during the transitional period.

C. General methodology of Article 5(1)(b) IGA

Article 5(1)(b) IGA reads as follows:

1. *Where in accordance with the relevant provisions of the SRM Regulation recourse to the Fund is decided, the Board shall have the power to dispose of the compartments of the Fund in the following manner: [...]*
 - b) *In the second place, if financial means available in the compartments of the Contracting Parties concerned referred to in point (a) are not sufficient to comply with the mission of the Fund as referred to in Article 75 of the SRM Regulation, recourse shall be had to the available financial means in the compartments of the Fund corresponding to all the Contracting Parties.
The financial means available in the compartments of all the Contracting Parties shall be supplemented, to the same degree specified in the third subparagraph of this point, by the remaining financial means in the national compartments corresponding to the Contracting Parties concerned by resolution referred to in point (a). [...]*

During the transitional period, recourse to all the national compartments of the Contracting Parties shall be made in the following manner:

 - *during the first and second year of the transitional period, recourse shall be had to the 40 % and 60 % respectively of the financial means available within the said compartments;*
 - *during the subsequent years of the transition period, the availability of the financial means in the said compartments shall increase annually by 6 2/3 percentage points.*

The referred increase per year of the availability of the financial means in all the national compartments of the Contracting Parties shall be spread evenly per quarter.

Article 5(1)(b) IGA thereby provides that during the transitional period aggregate recourse to non-concerned national compartments shall not exceed 60 % in 2017, with a further annual increase of this recourse by 6 2/3 percentage points (spread evenly per quarter) in subsequent years, of the sum of the paid-in contributions to the respective compartments.

Change of the mutualisation factor

The mutualisation factor changes only at the year's beginning for the first two years. As of 2018 the mutualisation factor increases annually by 6 2/3%-points and such increase is spread evenly per quarter (e.g. the factor is 61.67% for Q1 2018). The new amount of available means earmarked “mutualised” after every change of the mutualisation factor is equal to:

- the applicable mutualisation factor multiplied with the sum of all previously paid-in contributions to each respective compartment,
- minus the sum of all previous disbursements of available means earmarked "mutualised" from each respective compartment.

Mutualisation factor over time

Date	Factor
1.1.2016	40%
1.1.2017	60%
1.1.2018	61,67%
1.4.2018	63,33%
1.7.2018	65%
1.10.2018	66,67%
1.1.2019	68,33%
(...)	(...)
1.1.2024	100%

For example, the mutualisation factor is defined as 60% during the second year (2017). This means that until the end of 2017 not more than 60% of the sum of the paid-in contributions in the compartments of those Member States which did not have a resolution case can be drawn as mutualised means for the entire amount spent on resolution cases outside their home countries.

In turn, at the end of 2017 40% of the aggregate paid-in contributions of the compartments of the non-concerned Member States (without resolution case in their country) have to be preserved.

Treatment of incoming contributions

The amount of available means earmarked "mutualised" decreases when the SRF is used and increases once new contributions are transferred to the Fund by mid-year. The current mutualisation factor also applies to the incoming contributions, which are added to the remaining mutualised means. Once the total amount of mutualised means has been used (either for one or in aggregate for multiple resolution cases), no further means earmarked "mutualised" remain available until a new increase takes place (either by incoming contributions or by a higher mutualisation factor).

Following this logic, for the years as of 2018, the mutualisation factor for the third quarter (e.g. 65% for Q3 in 2018) will be applied to incoming ex-ante contributions and added to the total amount of available means earmarked "mutualised".

D. Common understanding on “financial means available”

The common understanding presented above is based on a holistic interpretation of the IGA in line with Recital 9 and Article 1.1(b), according to which the use of all national compartments shall be subject to a progressive mutualisation in a manner that the compartments will only cease to exist at the end of the transitional period.

Moreover, this common understanding implies that in order to determine the amount of available means earmarked "mutualised" in each compartment, the “financial means available” refer to the sum of all paid-in contributions,¹ regardless of any previous disbursements, and are multiplied with the currently applicable mutualisation factor. Any previous disbursements from means earmarked "mutualised" are deducted from the result of this multiplication to obtain the available means earmarked "mutualised".

¹ According to Article 3(1)(34) SRMR, “‘available financial means’ means the cash, deposits, assets and irrevocable payment commitments [IPCs] available to the Fund for the purposes listed under Article 76(1)”.

E. Conclusion

The common understanding outlined above ensures that a Member State's compartment cannot be depleted or be used beyond the thresholds provided for in the IGA by resolution cases outside of its home banking system at any point in time during the transitional period – even if many resolution cases take place.

It should be re-iterated that the current mutualisation factor is applied to incoming ex-ante contributions (30 June each year) and the resulting mutualised part of these contributions is then “added” to the thitherto remaining amount of mutualised means in a compartment. As a consequence, ex-ante contributions will not be taken into account until they will have been transferred to the Fund.