

Single Resolution Mechanism: loss-absorbing and recapitalisation capacity for credit institutions and investment firms

2016/0361(COD) - 16/04/2019 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 546 votes to 66, with 42 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 806/2014 as regards loss-absorbing and Recapitalisation Capacity for credit institutions and investment firms.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amended the Commission proposal as follows:

Implementation of international standards for loss absorption and recapitalisation

The proposal to amend Regulation (EU) No 806/2014 of the European Parliament and of the Council on the single resolution mechanism (MRU) aims to implement the standard on "total loss absorption capacity" (TLAC) developed by the Financial Stability Board in November 2015. It incorporates the TLAC requirement into the EU's Minimum Capital Requirement and Eligible Commitments (MREL) rules.

The amended text underlines that the objective of the TLAC standard is to ensure that global systemically important banks, referred to as global systemically important institutions ('G-SIIs') in the Union framework, have the loss-absorbing and recapitalisation capacity necessary to help ensure that in, and immediately following, a resolution, those institutions can continue to perform critical functions without putting taxpayers' funds, that is public funds or financial stability at risk.

In practice, the amending regulation requires global systemically important institutions to have a greater capacity to absorb losses and recapitalise by defining the requirements in terms of the level and quality of own funds and eligible liabilities (MREL) to ensure an effective and consistent insolvency procedure. It also provides for provisional safeguard measures and possible additional measures for the resolution authorities.

Respect for the MREL

The Board should be able to require that the MREL is met with own funds and other subordinated liabilities, in particular where there are clear indications that bailed-in creditors are likely to bear losses in resolution that would exceed the losses that they would incur under normal insolvency proceedings.

The Board should assess the need to require institutions and entities to meet the MREL with own funds and other subordinated liabilities where the amount of liabilities excluded from the application of the bail-in tool reaches a certain threshold within a class of liabilities that includes MREL eligible liabilities.

At the request of a resolution entity, the Board should be able to reduce the part of the MREL required to be met with own funds and other subordinated liabilities up to a limit that represents the proportion of the reduction possible under Article 72b(3) of [Regulation \(EU\) No 575/2013](#) in relation to the TLAC minimum requirement laid down in that Regulation.

Confidence buffer

The Board should be able to increase the recapitalisation amount to ensure sufficient market confidence in the institution or entity after the implementation of actions set out in the resolution plan. The requested level of the market confidence buffer should enable the institution or entity to continue to meet the conditions for authorisation for an appropriate period, including by allowing the institution or entity to cover the costs related to the restructuring of its activities following resolution, and to sustain sufficient market confidence. The market confidence buffer should be set by reference to part of the combined buffer requirement under [Directive 2013/36/EU](#).

The amended text also lays down provisions concerning:

- the Board's power should prohibit certain distributions if it considers that an institution or entity does not meet the overall capital buffer requirement under Directive 2013/36/EU when this requirement is taken into account in addition to the MREL;
- the minimum requirement for own funds and eligible commitments;
- application and calculation of the minimum requirement for own funds and eligible liabilities;
- eligible liabilities for resolution entities;
- determination of the minimum requirement for own funds and eligible liabilities for resolution entities of G-SIIs and Union material subsidiaries of non-EU G-SIIs;
- application of the minimum requirement for own funds and eligible liabilities to resolution entities;
- waiver for a central body and credit institutions permanently affiliated to a central body;
- breaches of the minimum requirement for own funds and eligible liabilities;
- transitional and post-resolution arrangements: the deadline for entities to comply with the minimum requirements shall be 1 January 2024.