

Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (Text with EEA relevance)

TITLE VII

FINANCING ARRANGEMENTS

Article 103

Ex-ante contributions

1 In order to reach the target level specified in Article 102, Member States shall ensure that contributions are raised at least annually from the institutions authorised in their territory including Union branches.

2 The contribution of each institution shall be 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 territory of the Member State.

Those contributions shall be adjusted in proportion to the risk profile of institutions, in accordance with the criteria adopted under paragraph 7.

3 The available financial means to be taken into account in order to reach the target level specified in Article 102 may include irrevocable 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 resolution authorities for the purposes specified in Article 101(1). The share of irrevocable payment commitments shall not exceed 30 % of the total amount of contributions raised in accordance with this Article.

4 Member States shall ensure that the obligation to pay the contributions specified in this Article is enforceable under national law, and that due contributions are fully paid.

Member States shall set up appropriate regulatory, accounting, reporting and other obligations to ensure that due contributions are fully paid. Member States shall ensure measures for the proper verification of whether the contributions have been paid correctly. Member States shall ensure measures to prevent evasion, avoidance and abuse.

5 The amounts raised in accordance with this Article shall only be used for the purposes specified in Article 101(1).

6 Subject to Articles 37, 38, 40, 41 and 42, the amounts received from the institution under resolution or the bridge institution, the interest and other earnings on investments and any other earnings may benefit the financing arrangements.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

7 The Commission shall be empowered to adopt delegated acts in accordance with Article 115 in order to specify the notion of adjusting contributions in proportion to the risk profile of institutions as referred to in paragraph 2 of this Article, taking into account all of the following:

- a the risk exposure of the institution, including the importance of its trading activities, its off-balance sheet exposures and its degree of leverage;
- b the stability and variety of the company's sources of funding and unencumbered highly liquid assets;
- c the financial condition of the institution;
- d the probability that the institution enters into resolution;
- e the extent to which the institution has previously benefited from extraordinary public financial support;
- f the complexity of the structure of the institution and its resolvability;
- g the importance of the institution to the stability of the financial system or economy of one or more Member States or of the Union;
- h the fact that the institution is part of an IPS.

8 The Commission shall be empowered to adopt delegated acts in accordance with Article 115 in order to specify:

- a the registration, accounting, reporting obligations and other obligations referred to in paragraph 4 intended to ensure that the contributions are in fact paid;
- b the measures referred to in paragraph 4 to ensure proper verification of whether the contributions have been paid correctly.