

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 107

Mutualisation of national financing arrangements in the case of a group resolution

1 Member States shall ensure that, in the case of a group resolution as referred to in Article 91 or Article 92, the national financing arrangement of each institution that is part of a group contributes to the financing of the group resolution in accordance with this Article.

2 For the purposes of paragraph 1, the group-level resolution authority, after consulting the resolution authorities of the institutions that are part of the group, shall propose, if necessary before taking any resolution action, a financing plan as part of the group resolution scheme provided for in Articles 91 and 92.

The financing plan shall be agreed in accordance with the decision-making procedure referred to in Articles 91 and 92.

- 3 The financing plan shall include:
- a a valuation in accordance with Article 36 in respect of the affected group entities;
 - b the losses to be recognised by each affected group entity at the moment the resolution tools are exercised;
 - c for each affected group entity, the losses that would be suffered by each class of shareholders and creditors;
 - d any contribution that deposit guarantee schemes would be required to make in accordance with Article 109(1);
 - e the total contribution by resolution financing arrangements and the purpose and form of the contribution;
 - f the basis for calculating the amount that each of the national financing arrangements of the Member States where affected group entities are located is required to contribute to the financing of the group resolution in order to build up the total contribution referred to in point (e);
 - g the amount that the national financing arrangement of each affected group entity is required to contribute to the financing of the group resolution and the form of those contributions;
 - h the amount of borrowing that the financing arrangements of the Member States where the affected group entities are located, will contract from institutions, financial institutions and other third parties under Article 105;

- i a timeframe for the use of the financing arrangements of the Member States where the affected group entities are located, which should be capable of being extended where appropriate.

4 The basis for apportioning the contribution referred to in point (e) of paragraph 3 shall be consistent with paragraph 5 of this Article and with the principles set out in the group resolution plan in accordance with point (f) of Article 12(3), unless otherwise agreed in the financing plan.

5 Unless agreed otherwise in the financing plan, the basis for calculating the contribution of each national financing arrangement shall in particular have regard to:

- a the proportion of the group's risk-weighted assets held at institutions and entities referred to in points (b), (c) and (d) of Article 1(1) established in the Member State of that resolution financing arrangement;
- b the proportion of the group's assets held at institutions and entities referred to in points (b), (c) and (d) of Article 1(1) established in the Member State of that resolution financing arrangement;
- c the proportion of the losses, which have given rise to the need for group resolution, which originated in group entities under the supervision of competent authorities in the Member State of that resolution financing arrangement; and
- d the proportion of the resources of the group financing arrangements which, under the financing plan, are expected to be used to benefit group entities established in the Member State of that resolution financing arrangement directly.

6 Member States shall establish rules and procedures in advance to ensure that each national financing arrangement can effect its contribution to the financing of group resolution immediately without prejudice to paragraph 2.

7 For the purpose of this Article, Member States shall ensure that group financing arrangements are allowed, under the conditions laid down in Article 105, to contract borrowings or other forms of support, from institutions, financial institutions or other third parties.

8 Member States shall ensure that national financing arrangements under their jurisdiction may guarantee any borrowing contracted by the group financing arrangements in accordance with paragraph 7.

9 Member States shall ensure that any proceeds or benefits that arise from the use of the group financing arrangements are allocated to national financing arrangements in accordance with their contributions to the financing of the resolution as established in paragraph 2.