

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 IV

RESOLUTION

CHAPTER IV

Resolution tools

Section 5

The bail-in tool

Subsection 2

Minimum requirement for own funds and eligible liabilities

^{F1}Article 45m

Transitional and post-resolution arrangements

1 By way of derogation from Article 45(1), resolution authorities shall determine appropriate transitional periods for institutions or entities referred to in points (b), (c) and (d) of Article 1(1) to comply with the requirements in Articles 45e or 45f or with requirements that result from the application of Article 45b(4), (5) or (7), as appropriate. The deadline for institutions and entities to comply with the requirements in Articles 45e or 45f or the requirements that result from the application of Article 45b(4), (5) or (7) shall be 1 January 2024.

The resolution authority shall determine intermediate target levels for the requirements in Articles 45e or 45f or for requirements that result from the application of Article 45b(4), (5) or (7), as appropriate, that institutions or entities referred to in points (b), (c) and (d) of Article 1(1) shall comply with at 1 January 2022. The intermediate target levels, as a rule, shall ensure a linear build-up of own funds and eligible liabilities towards the requirement.

The resolution authority may set a transitional period that ends after 1 January 2024 where duly justified and appropriate on the basis of the criteria referred to in paragraph 7, taking into consideration:

- a the development of the entity's financial situation;

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- b the prospect that the entity will be able to ensure compliance in a reasonable timeframe with the requirements in Article 45e or 45f or with a requirement that results from the application of Article 45b(4), (5) or (7); and
- c whether the entity is able to replace liabilities that no longer meet the eligibility or maturity criteria laid down in Articles 72b and 72c of Regulation (EU) No 575/2013, and Article 45b or Article 45f(2) of this Directive, and if not, whether that inability is of an idiosyncratic nature or is due to market-wide disturbance.

2 The deadline for resolution entities to comply with the minimum level of the requirements referred to in Article 45c(5) or (6) shall be 1 January 2022.

3 The minimum levels of the requirements referred to in Article 45c(5) and (6) shall not apply within the two-year period following the date:

- a on which the resolution authority has applied the bail-in tool; or
- b on which the resolution entity has put in place an alternative private sector measure as referred to in point (b) of Article 32(1) by which capital instruments and other liabilities have been written down or converted into Common Equity Tier 1 instruments, or on which write down or conversion powers, in accordance with Article 59, have been exercised in respect of that resolution entity, in order to recapitalise the resolution entity without the application of resolution tools.

4 The requirements referred to in Article 45b(4) and (7) as well as Article 45c(5) and (6), as applicable, shall not apply within the three-year period following the date on which the resolution entity or the group of which the resolution entity is part has been identified as a G-SII, or the resolution entity starts to be in the situation referred to in Article 45c(5) or (6).

5 By way of derogation from Article 45(1), resolution authorities shall determine an appropriate transitional period within which to comply with the requirements of Articles 45e or 45f, or a requirement resulting from the application of Article 45b(4), (5) or (7), as appropriate, for institutions or entities referred to in points (b), (c) and (d) of Article 1(1) to which resolution tools or the write-down or conversion power referred to in Article 59 have been applied.

6 For the purposes of paragraphs 1 to 5, resolution authorities shall communicate to the institution or entity referred to in points (b), (c) and (d) of Article 1(1) a planned minimum requirement for own funds and eligible liabilities for each 12-month period during the transitional period, with a view to facilitating a gradual build-up of its loss-absorbing and recapitalisation capacity. At the end of the transitional period, the minimum requirement for own funds and eligible liabilities shall be equal to the amount determined under Article 45b(4), (5) or (7), Article 45c(5) or (6), Article 45e or Article 45f, as applicable.

7 When determining the transitional periods, resolution authorities shall take into account:

- a the prevalence of deposits and the absence of debt instruments in the funding model;
- b the access to the capital markets for eligible liabilities;
- c the extent to which the resolution entity relies on Common Equity Tier 1 capital to meet the requirement referred to in Article 45e.

8 Subject to paragraph 1, resolution authorities shall not be prevented from subsequently revising either the transitional period or any planned minimum requirement for own funds and eligible liabilities communicated under paragraph 6.]

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Textual Amendments

- F1** Substituted by [Directive \(EU\) 2019/879 of the European Parliament and of the Council of 20 May 2019 amending Directive 2014/59/EU as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms and Directive 98/26/EC](#).