

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 3*

#### *Implementation of the bail-in tool*

##### *Article 48*

#### **Sequence of write down and conversion**

1 Member States shall ensure that, when applying the bail-in tool, resolution authorities exercise the write down and conversion powers, subject to any exclusions under Article 44(2) and (3), meeting the following requirements:

- a Common Equity Tier 1 items are reduced in accordance with point (a) of Article 60(1);
- b if, and only if, the total reduction pursuant to point (a) is less than the sum of the amounts referred to in points (b) and (c) of Article 47(3), authorities reduce the principal amount of Additional Tier 1 instruments to the extent required and to the extent of their capacity;
- c if, and only if, the total reduction pursuant to points (a) and (b) is less than the sum of the amounts referred to in points (b) and (c) of Article 47(3), authorities reduce the principal amount of Tier 2 instruments to the extent required and to the extent of their capacity;
- d if, and only if, the total reduction of shares or other instruments of ownership and relevant capital instruments pursuant to points (a), (b) and (c) is less than the sum of the amounts referred to in points (b) and (c) of Article 47(3), authorities reduce to the extent required the principal amount of subordinated debt that is not Additional Tier 1 or Tier 2 capital in accordance with the hierarchy of claims in normal insolvency proceedings, in conjunction with the write down pursuant to points (a), (b) and (c) to produce the sum of the amounts referred to in points (b) and (c) of Article 47(3);

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[<sup>F1</sup>e if, and only if, the total reduction of shares or other instruments of ownership, relevant capital instruments and bail-inable liabilities pursuant to points (a) to (d) of this paragraph is less than the sum of the amounts referred to in points (b) and (c) of Article 47(3), authorities reduce to the extent required the principal amount of, or outstanding amount payable in respect of, the rest of bail-inable liabilities, including debt instruments referred to in Article 108(3), in accordance with the hierarchy of claims in normal insolvency proceedings, including the ranking of deposits provided for in Article 108, pursuant to Article 44, in conjunction with the write down pursuant to points (a) to (d) of this paragraph to produce the sum of the amounts referred to in points (b) and (c) of Article 47(3).]

2 When applying the write down or conversion powers, resolution authorities shall allocate the losses represented by the sum of the amounts referred to in points (b) and (c) of Article 47(3) equally between shares or other instruments of ownership and [<sup>F1</sup>bail-inable liabilities of the same rank by reducing the principal amount of, or outstanding amount payable in respect of, those shares or other instruments of ownership and bail-inable liabilities] to the same extent pro rata to their value except where a different allocation of losses amongst liabilities of the same rank is allowed in the circumstances specified in Article 44(3).

This paragraph shall not prevent liabilities which have been excluded from bail-in in accordance with Article 44(2) and (3) from receiving more favourable treatment than [<sup>F1</sup>bail-inable liabilities] which are of the same rank in normal insolvency proceedings.

3 Before applying the write down or conversion referred to in point (e) of paragraph 1, resolution authorities shall convert or reduce the principal amount on instruments referred to in points (b), (c) and (d) of paragraph 1 when those instruments contain the following terms and have not already been converted:

- a terms that provide for the principal amount of the instrument to be reduced on the occurrence of any event that refers to the financial situation, solvency or levels of own funds of the institution or entity referred to in point (b), (c) or (d) of Article 1(1);
- b terms that provide for the conversion of the instruments to shares or other instruments of ownership on the occurrence of any such event.

4 Where the principal amount of an instrument has been reduced, but not to zero, in accordance with terms of the kind referred to in point (a) of paragraph 3 before the application of the bail-in pursuant to paragraph 1, resolution authorities shall apply the write-down and conversion powers to the residual amount of that principal in accordance with paragraph 1.

5 When deciding on whether liabilities are to be written down or converted into equity, resolution authorities shall not convert one class of liabilities, while a class of liabilities that is subordinated to that class remains substantially unconverted into equity or not written down, unless otherwise permitted under Article 44(2) and (3).

6 For the purposes of this Article, EBA shall, by 3 January 2016, issue guidelines in accordance with Article 16 of Regulation (EU) No 1093/2010 for any interpretation relating to the interrelationship between the provisions of this Directive and those of Regulation (EU) No 575/2013 and Directive 2013/36/EU.

[<sup>F2</sup>7 Member States shall ensure that, for entities referred to in points (a) to (d) of the first subparagraph of Article 1(1), all claims resulting from own funds items have, in national laws governing normal insolvency proceedings, a lower priority ranking than any claim that does not result from an own funds item.

For the purposes of the first subparagraph, to the extent that an instrument is only partly recognised as an own funds item, the whole instrument shall be treated as a claim

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resulting from an own funds item and shall rank lower than any claim that does not result from an own funds item.]

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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.](#)
- F2** Inserted 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.](#)