

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 VII

Safeguards

Article 74

Valuation of difference in treatment

1 For the purposes of assessing whether shareholders and creditors would have received better treatment if the institution under resolution had entered into normal insolvency proceedings, including but not limited to for the purpose of Article 73, Member States shall ensure that a valuation is carried out by an independent person as soon as possible after the resolution action or actions have been effected. That valuation shall be distinct from the valuation carried out under Article 36.

2 The valuation in paragraph 1 shall determine:

- a the treatment that shareholders and creditors, or the relevant deposit guarantee schemes, would have received if the institution under resolution with respect to which the resolution action or actions have been effected had entered normal insolvency proceedings at the time when the decision referred to in Article 82 was taken;
- b the actual treatment that shareholders and creditors have received, in the resolution of the institution under resolution; and
- c if there is any difference between the treatment referred to in point (a) and the treatment referred to in point (b).

3 The valuation shall:

- a assume that the institution under resolution with respect to which the resolution action or actions have been effected, would have entered normal insolvency proceedings at the time when the decision referred to in Article 82 was taken;
- b assume that the resolution action or actions had not been effected;
- c disregard any provision of extraordinary public financial support to the institution under resolution.

4 EBA may develop draft regulatory technical standards specifying the methodology for carrying out the valuation in this Article, in particular the methodology for assessing the treatment that shareholders and creditors would have received if the institution under resolution

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had entered insolvency proceedings at the time when the decision referred to in Article 82 was taken.

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.