

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 76*

#### **Safeguard for counterparties in partial transfers**

1 Member States shall ensure that the protections specified in paragraph 2 apply in the following circumstances:

- a a resolution authority transfers some but not all of the assets, rights or liabilities of an institution under resolution to another entity or, in the exercise of a resolution tool, from a bridge institution or asset management vehicle to another person;
- b a resolution authority exercises the powers specified in point (f) of Article 64(1).

2 Member States shall ensure appropriate protection of the following arrangements and of the counterparties to the following arrangements:

- a security arrangements, under which a person has by way of security an actual or contingent interest in the assets or rights that are subject to transfer, irrespective of whether that interest is secured by specific assets or rights or by way of a floating charge or similar arrangement;
- b title transfer financial collateral arrangements under which collateral to secure or cover the performance of specified obligations is provided by a transfer of full ownership of assets from the collateral provider to the collateral taker, on terms providing for the collateral taker to transfer assets if those specified obligations are performed;
- c set-off arrangements under which two or more claims or obligations owed between the institution under resolution and a counterparty can be set off against each other;
- d netting arrangements;
- e covered bonds;
- f structured finance arrangements, including securitisations and instruments used for hedging purposes which form an integral part of the cover pool and which according to national law are secured in a way similar to the covered bonds, which involve the granting and holding of security by a party to the arrangement or a trustee, agent or nominee.

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The form of protection that is appropriate, for the classes of arrangements specified in points (a) to (f) of this paragraph is further specified in Articles 77 to 80, and shall be subject to the restrictions specified in Articles 68 to 71.

3 The requirement under paragraph 2 applies irrespective of the number of parties involved in the arrangements and of whether the arrangements:

- a are created by contract, trusts or other means, or arise automatically by operation of law;
- b arise under or are governed in whole or in part by the law of another Member State or of a third country.

4 The Commission shall adopt delegated acts in accordance with Article 115 further specifying the classes of arrangement that fall within the scope of points (a) to (f) of paragraph 2 of this Article.