

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 X

### **AMENDMENTS TO DIRECTIVES 82/891/EEC, 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 TO REGULATIONS (EU) NO 1093/2010 AND (EU) NO 648/2012**

#### *Article 117*

#### **Amendments to Directive 2001/24/EC**

Directive 2001/24/EC is amended as follows:

- (1) In Article 1, the following paragraphs are added:
  3. This Directive shall also apply to investment firms as defined in point (2) of Article 4(1) of Regulation (EU) No 575/2013 of the European Parliament and of the Council<sup>(1)</sup> and their branches located in Member States other than those in which they have their head offices.
  4. In the event of application of the resolution tools and exercise of the resolution powers provided for in Directive 2014/59/EU of the European Parliament and of the Council<sup>(2)</sup>, this Directive shall also apply to the financial institutions, firms and parent undertakings falling within the scope of Directive 2014/59/EU.
  5. Articles 4 and 7 of this Directive shall not apply where Article 83 of Directive 2014/59/EU applies.
  6. Article 33 of this Directive shall not apply where Article 84 of Directive 2014/59/EU applies.;
- (2) Article 2 is replaced by the following:

#### *Article 2*

#### **Definitions**

For the purposes of this Directive:

- ‘home Member State’ shall mean a home Member State as defined in Article 4(1)(43) of Regulation (EU) No 575/2013;
- ‘host Member State’ shall mean a host Member State as defined in Article 4(1)(44) of Regulation (EU) No 575/2013;
- ‘branch’ shall mean a branch as defined in Article 4(1)(17) of Regulation (EU) No 575/2013;

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- ‘competent authority’ shall mean a competent authority as defined in Article 4(1)(40) of Regulation (EU) No 575/2013 or a resolution authority within the meaning of Article 2(1)(18) of Directive 2014/59/EU in respect of reorganisation measures taken pursuant to that Directive;
- ‘administrator’ shall mean any person or body appointed by the administrative or judicial authorities whose task is to administer reorganisation measures;
- ‘administrative or judicial authorities’ shall mean such administrative or judicial authorities of the Member States as are competent for the purposes of reorganisation measures or winding-up proceedings;
- ‘reorganisation measures’ shall mean measures which are intended to preserve or restore the financial situation of a credit institution or an investment firm as defined in Article 4(1), point (2) of Regulation (EU) No 575/2013 and which could affect third parties’ pre-existing rights, including measures involving the possibility of a suspension of payments, suspension of enforcement measures or reduction of claims; those measures include the application of the resolution tools and the exercise of resolution powers provided for in Directive 2014/59/EU;
- ‘liquidator’ shall mean any person or body appointed by the administrative or judicial authorities whose task is to administer winding-up proceedings;
- ‘winding-up proceedings’ shall mean collective proceedings opened and monitored by the administrative or judicial authorities of a Member State with the aim of realising assets under the supervision of those authorities, including where the proceedings are terminated by a composition or other, similar measure;
- ‘regulated market’ shall mean a regulated market as defined in Article 4(1), point (21) of Directive 2014/65/EU of the European Parliament and of the Council<sup>(3)</sup>;
- ‘instrument’ shall mean a financial instrument as defined in Article 4(1), point (50)(b) of Regulation (EU) No 575/2013.;

(3) Article 25 is replaced by the following:

*Article 25*

**Netting agreements**

Without prejudice to Articles 68 and 71 of Directive 2014/59/EU, netting agreements shall be governed solely by the law of the contract which governs such agreements.;

(4) Article 26 is replaced by the following:

*Article 26*

**Repurchase agreements**

Without prejudice to Articles 68 and 71 of Directive 2014/59/EU and Article 24 of this Directive, repurchase agreements shall be governed solely by the law of the contract which governs such agreements..

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- (1) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 ([OJ L 176, 27.6.2013, p. 1](#)).
- (2) 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 ([OJ L 173, 12.6.2014, p. 190](#));
- (3) Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU ([OJ L 173, 12.6.2014, p. 349](#));