

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 V

[^{F1}Write down or conversion of capital instruments and eligible liabilities]

Article 60

[^{F1}Provisions concerning the write down or conversion of relevant capital instruments and eligible liabilities]

1 When complying with the requirement laid down in Article 59, resolution authorities shall exercise the write down or conversion power in accordance with the priority of claims under normal insolvency proceedings, in a way that produces the following results:

- a Common Equity Tier 1 items are reduced first in proportion to the losses and to the extent of their capacity and the resolution authority takes one or both of the actions specified in Article 47(1) in respect of holders of Common Equity Tier 1 instruments;
- b the principal amount of Additional Tier 1 instruments is written down or converted into Common Equity Tier 1 instruments or both, to the extent required to achieve the resolution objectives set out in Article 31 or to the extent of the capacity of the relevant capital instruments, whichever is lower;
- c the principal amount of Tier 2 instruments is written down or converted into Common Equity Tier 1 instruments or both, to the extent required to achieve the resolution objectives set out in Article 31 or to the extent of the capacity of the relevant capital instruments, whichever is lower^{[F1];}
- ^[F2]d the principal amount of eligible liabilities referred to in Article 59(1a) is written down or converted into Common Equity Tier 1 instruments or both, to the extent required to achieve the resolution objectives set out in Article 31 or to the extent of the capacity of the relevant eligible liabilities, whichever is lower.]

^[F2] Where the principal amount of a relevant capital instrument, or an eligible liability as referred to in Article 59(1a) is written down:

- a the reduction of that principal amount shall be permanent, subject to any write up in accordance with the reimbursement mechanism in Article 46(3);
- b no liability to the holder of the relevant capital instrument, or of the eligible liability as referred to in Article 59(1a), shall remain under or in connection with that amount of the instrument, which has been written down, except for any liability already accrued,

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and any liability for damages that may arise as a result of an appeal challenging the legality of the exercise of the write down power;

- c no compensation is paid to any holder of the relevant capital instruments, or of the liabilities as referred to in Article 59(1a), other than in accordance with paragraph 3 of this Article.]

3 [F1 In order to effect a conversion of relevant capital instruments, and eligible liabilities as referred to in Article 59(1a), under points (b), (c) and (d) of paragraph 1 of this Article, resolution authorities may require institutions and entities referred to in points (b), (c) and (d) of Article 1(1) to issue Common Equity Tier 1 instruments to the holders of the relevant capital instruments and such eligible liabilities. Relevant capital instruments and such liabilities may only be converted where the following conditions are met:]

- a those Common Equity Tier 1 instruments are issued by the institution or the entity referred to in point (b), (c) or (d) of Article 1(1) or by a parent undertaking of the institution or the entity referred to in point (b), (c) or (d) of Article 1(1), with the agreement of the resolution authority of the institution or the entity referred to in points (b), (c) or (d) of Article 1(1) or, where relevant, of the resolution authority of the parent undertaking;
- b those Common Equity Tier 1 instruments are issued prior to any issuance of shares or other instruments of ownership by that institution or that entity referred to in point (b), (c) or (d) of Article 1(1) for the purposes of provision of own funds by the State or a government entity;
- c those Common Equity Tier 1 instruments are awarded and transferred without delay following the exercise of the conversion power;
- d the conversion rate that determines the number of Common Equity Tier 1 instruments that are provided in respect of [F1 each relevant capital instrument, or each eligible liability as referred to in Article 59(1a)] complies with the principles set out in Article 50 and any guidelines developed by EBA pursuant to Article 50(4).

4 For the purposes of the provision of Common Equity Tier 1 instruments in accordance with paragraph 3, resolution authorities may require institutions and entities referred to in points (b), (c) and (d) of Article 1(1) to maintain at all times the necessary prior authorisation to issue the relevant number of Common Equity Tier 1 instruments.

5 Where an institution meets the conditions for resolution and the resolution authority decides to apply a resolution tool to that institution, the resolution authority shall comply with the requirement laid down in Article 59(3) before applying the resolution tool.

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](#).