

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 VI

#### *Resolution powers*

#### *Article 64*

#### **Ancillary powers**

1 Member States shall ensure that, when exercising a resolution power, resolution authorities have the power to:

- a subject to Article 78, provide for a transfer to take effect free from any liability or encumbrance affecting the financial instruments, rights, assets or liabilities transferred; for that purpose, any right of compensation in accordance with this Directive shall not be considered to be a liability or an encumbrance;
- b remove rights to acquire further shares or other instruments of ownership;
- c require the relevant authority to discontinue or suspend the admission to trading on a regulated market or the official listing of financial instruments pursuant to Directive 2001/34/EC of the European Parliament and of the Council<sup>(1)</sup>;
- d provide for the recipient to be treated as if it were the institution under resolution for the purposes of any rights or obligations of, or actions taken by, the institution under resolution, including, subject to Articles 38 and 40, any rights or obligations relating to participation in a market infrastructure;
- e require the institution under resolution or the recipient to provide the other with information and assistance; and
- f cancel or modify the terms of a contract to which the institution under resolution is a party or substitute a recipient as a party.

2 Resolution authorities shall exercise the powers specified in paragraph 1 where it is considered by the resolution authority to be appropriate to help to ensure that a resolution action is effective or to achieve one or more resolution objectives.

3 Member States shall ensure that, when exercising a resolution power, resolution authorities have the power to provide for continuity arrangements necessary to ensure that the resolution action is effective and, where relevant, the business transferred may be operated by the recipient. Such continuity arrangements shall include, in particular:

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- a the continuity of contracts entered into by the institution under resolution, so that the recipient assumes the rights and liabilities of the institution under resolution relating to any financial instrument, right, asset or liability that has been transferred and is substituted for the institution under resolution, expressly or implicitly in all relevant contractual documents;
  - b the substitution of the recipient for the institution under resolution in any legal proceedings relating to any financial instrument, right, asset or liability that has been transferred.
- 4 The powers in point (d) of paragraph 1 and point (b) of paragraph 3 shall not affect the following:
- a the right of an employee of the institution under resolution to terminate a contract of employment;
  - b subject to Articles 69, 70 and 71, any right of a party to a contract to exercise rights under the contract, including the right to terminate, where entitled to do so in accordance with the terms of the contract by virtue of an act or omission by the institution under resolution prior to the relevant transfer, or by the recipient after the relevant transfer.

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- (1) Directive 2001/34/EC of the European Parliament and of the Council of 28 May 2001 on the admission of securities to official stock exchange listing and on information to be published on those securities ([OJ L 184, 6.7.2001, p. 1](#)).