

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*

#### *f<sup>1</sup>Article 71a*

#### **Contractual recognition of resolution stay powers**

1 Member States shall require institutions and entities referred to in points (b), (c) and (d) of Article 1(1) to include in any financial contract which they enter into and which is governed by third-country law, terms by which the parties recognise that the financial contract may be subject to the exercise of powers by the resolution authority to suspend or restrict rights and obligations under Articles 33a, 69, 70, and 71 and recognise that they are bound by the requirements of Article 68.

2 Member States may also require that Union parent undertakings ensure that their third-country subsidiaries include, in the financial contracts referred to in paragraph 1, terms to exclude that the exercise of the power of the resolution authority to suspend or restrict rights and obligations of the Union parent undertaking, in accordance with paragraph 1, constitutes a valid ground for early termination, suspension, modification, netting, exercise of set-off rights or enforcement of security interests on those contracts.

The requirement in the first subparagraph may apply in respect of third-country subsidiaries which are:

- a credit institutions;
- b investment firms (or which would be investment firms if they had a head office in the relevant Member State); or
- c financial institutions.

3 Paragraph 1 shall apply to any financial contract which:

- a creates a new obligation, or materially amends an existing obligation after the entry into force of the provisions adopted at national level to transpose this Article;
- b provides for the exercise of one or more termination rights or rights to enforce security interests to which Article 33a, 68, 69, 70 or 71 would apply if the financial contract were governed by the laws of a Member State.

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4 Where an institution or entity does not include the contractual term required in accordance with paragraph 1 of this Article, that shall not prevent the resolution authority from applying the powers referred to in Articles 33a, 68, 69, 70 or 71 in relation to that financial contract.

5 EBA shall develop draft regulatory technical standards in order to further determine the contents of the term required in paragraph 1, taking into account institutions' and entities' different business models.

EBA shall submit those draft regulatory technical standards to the Commission by 28 June 2020.

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.]

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#### **Textual Amendments**

- F1** 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](#).