

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 V

### CROSS-BORDER GROUP RESOLUTION

#### *Article 91*

#### **Group resolution involving a subsidiary of the group**

1 Where a resolution authority decides that an institution or any entity referred to in point (b), (c) or (d) of Article 1(1) that is a subsidiary in a group meets the conditions referred to in Article 32 or 33, that authority shall notify the following information without delay to the group-level resolution authority, if different, to the consolidating supervisor, and to the members of the resolution college for the group in question:

- a the decision that the institution or entity referred to in point (b), (c) or (d) of Article 1(1) meets the conditions referred to in Article 32 or 33;
- b the resolution actions or insolvency measures that the resolution authority considers to be appropriate for that institution or that entity referred to in point (b), (c) or (d) of Article 1(1).

2 On receiving a notification under paragraph 1, the group-level resolution authority, after consulting the other members of the relevant resolution college, shall assess the likely impact of the resolution actions or other measures notified in accordance with point (b) of paragraph 1, on the group and on group entities in other Member States, and, in particular, whether the resolution actions or other measures would make it likely that the conditions for resolution would be satisfied in relation to a group entity in another Member State.

3 If the group-level resolution authority, after consulting the other members of the resolution college, assesses that the resolution actions or other measures notified in accordance with point (b) of paragraph 1, would not make it likely that the conditions laid down in Article 32 or 33 would be satisfied in relation to a group entity in another Member State, the resolution authority responsible for that institution or that entity referred to in point (b), (c) or (d) of Article 1(1) may take the resolution actions or other measures that it notified in accordance with point (b) of paragraph 1 of this Article.

4 If the group-level resolution authority, after consulting the other members of the resolution college, assesses that the resolution actions or other measures notified in accordance with point (b) of paragraph 1 of this Article, would make it likely that the conditions laid down in Article 32 or 33 would be satisfied in relation to a group entity in another Member State, the group-level resolution authority shall, no later than 24 hours after receiving the notification under paragraph 1, propose a group resolution scheme and submit it to the resolution college. That 24-hour period may be extended with the consent of the resolution authority which made the notification referred to in paragraph 1 of this Article.

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5 In the absence of an assessment by the group-level resolution authority within 24 hours, or a longer period that has been agreed, after receiving the notification under paragraph 1, the resolution authority which made the notification referred to in paragraph 1 may take the resolution actions or other measures that it notified in accordance with point (b) of that paragraph.

6 A group resolution scheme required under paragraph 4 shall:

- a take into account and follow the resolution plans as referred to in Article 13 unless resolution authorities assess, taking into account circumstances of the case, that resolution objectives will be achieved more effectively by taking actions which are not provided for in the resolution plans;
- b outline the resolution actions that should be taken by the relevant resolution authorities in relation to the Union parent undertaking or particular group entities with the aim of meeting the resolution objectives and principles referred to in Articles 31 and 34;
- c specify how those resolution actions should be coordinated;
- d establish a financing plan which takes into account the group resolution plan, principles for sharing responsibility as established in accordance with point (f) of Article 12(3) and the mutualisation as referred to in Article 107.

7 Subject to paragraph 8, the group resolution scheme shall take the form of a joint decision of the group-level resolution authority and the resolution authorities responsible for the subsidiaries that are covered by the group resolution scheme.

EBA may, at the request of a resolution authority, assist the resolution authorities in reaching a joint decision in accordance with Article 31(c) of Regulation (EU) No 1093/2010.

8 If any resolution authority disagrees with or departs from the group resolution scheme proposed by the group-level resolution authority or considers that it needs to take independent resolution actions or measures other than those proposed in the scheme in relation to an institution or an entity referred to in point (b), (c) or (d) of Article 1(1) for reasons of financial stability, it shall set out in detail the reasons for the disagreement or the reasons to depart from the group resolution scheme, notify the group-level resolution authority and the other resolution authorities that are covered by the group resolution scheme of the reasons and inform them about the actions or measures it will take. When setting out the reasons for its disagreement, that resolution authority shall take into consideration the resolution plans as referred to in Article 13, the potential impact on financial stability in the Member States concerned as well as the potential effect of the actions or measures on other parts of the group.

9 The resolution authorities which did not disagree under paragraph 8 may reach a joint decision on a group resolution scheme covering group entities in their Member State.

10 The joint decision referred to in paragraph 7 or 9 and the decisions taken by the resolution authorities in the absence of a joint decision referred to in paragraph 8 shall be recognised as conclusive and applied by the resolution authorities in the Member States concerned.

11 Authorities shall perform all actions under this Article without delay, and with due regard to the urgency of the situation.

12 In any case where a group resolution scheme is not implemented and resolution authorities take resolution actions in relation to any group entity, those resolution authorities shall cooperate closely within the resolution college with a view to achieving a coordinated resolution strategy for all the group entities that are failing or likely to fail.

13 Resolution authorities that take any resolution action in relation to any group entity shall inform the members of the resolution college regularly and fully about those actions or measures and their on-going progress.