

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 II

### PREPARATION

#### CHAPTER II

#### *Resolvability*

##### *Article 15*

#### **Assessment of resolvability for institutions**

1 Member States shall ensure that, after the resolution authority has consulted the competent authority and the resolution authorities of the jurisdictions in which significant branches are located insofar as is relevant to the significant branch, it assesses the extent to which an institution which is not part of a group is resolvable without the assumption of any of the following:

- a any extraordinary public financial support besides the use of the financing arrangements established in accordance with Article 100;
- b any central bank emergency liquidity assistance;
- c any central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms.

An institution shall be deemed to be resolvable if it is feasible and credible for the resolution authority to either liquidate it under normal insolvency proceedings or to resolve it by applying the different resolution tools and powers to the institution while avoiding to the maximum extent possible any significant adverse effect on the financial system, including in circumstances of broader financial instability or system-wide events, of the Member State in which the institution is established, or other Member States or the Union and with a view to ensuring the continuity of critical functions carried out by the institution. The resolution authorities shall notify EBA in a timely manner whenever an institution is deemed not to be resolvable.

2 For the purposes of the assessment of resolvability referred to in paragraph 1, the resolution authority shall, as a minimum, examine the matters specified in Section C of the Annex.

3 The resolvability assessment under this Article shall be made by the resolution authority at the same time as and for the purposes of the drawing up and updating of the resolution plan in accordance with Article 10.

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4 EBA, after consulting the ESRB, shall develop draft regulatory technical standards to specify the matters and criteria for the assessment of the resolvability of institutions or groups provided for in paragraph 2 of this Article and in Article 16.

EBA shall submit those draft regulatory technical standards to the Commission by 3 July 2015.

Power is conferred on the Commission to adopt the draft regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

### *Article 16*

#### **Assessment of resolvability for groups**

1 Member States shall ensure that group-level resolution authorities, together with the resolution authorities of subsidiaries, after consulting the consolidating supervisor and the competent authorities of such subsidiaries, and the resolution authorities of the jurisdictions in which significant branches are located insofar as is relevant to the significant branch, assess the extent to which groups are resolvable without the assumption of any of the following:

- a any extraordinary public financial support besides the use of the financing arrangements established in accordance with Article 100;
- b any central bank emergency liquidity assistance;
- c any central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms.

[<sup>F1</sup>A group shall be deemed to be resolvable if it is feasible and credible for the resolution authorities either to wind up group entities under normal insolvency proceedings or to resolve that group by applying resolution tools to, and exercising resolution powers with respect to, resolution entities of that group while avoiding, to the maximum extent possible, any significant adverse consequences for the financial systems of the Member States in which group entities or branches are located, or of other Member States or of the Union, including broader financial instability or system-wide events, with a view to ensuring the continuity of critical functions carried out by those group entities, where they can be easily separated in a timely manner, or by other means.

Group-level resolution authorities shall notify EBA in a timely manner whenever a group is deemed not to be resolvable.]

The assessment of group resolvability shall be taken into consideration by the resolution colleges referred to in Article 88.

2 For the purposes of the assessment of group resolvability, resolution authorities shall, as a minimum, examine the matters specified in Section C of the Annex.

3 The assessment of group resolvability under this Article shall be made at the same time as, and for the purposes of drawing up and updating of the group resolution plans in accordance with Article 12. The assessment shall be made under the decision-making procedure laid down in Article 13.

[<sup>F24</sup> Member States shall ensure that, where a group is composed of more than one resolution group, the authorities referred to in paragraph 1 shall assess the resolvability of each resolution group in accordance with this Article.

The assessment referred to in the first subparagraph of this paragraph shall be performed in addition to the assessment of the resolvability of the entire group and shall be made within the decision-making procedure laid down in Article 13.]

#### 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](#).

### *F2* Article 16a

#### Power to prohibit certain distributions

1 Where an entity is in a situation where it meets the combined buffer requirement when considered in addition to each of the requirements referred to in points (a), (b) and (c) of Article 141a(1) of Directive 2013/36/EU, but it fails to meet the combined buffer requirement when considered in addition to the requirements referred to in Articles 45c and 45d of this Directive, when calculated in accordance with point (a) of Article 45(2) of this Directive, the resolution authority of that entity shall have the power, in accordance with paragraphs 2 and 3 of this Article, to prohibit an entity from distributing more than the Maximum Distributable Amount related to the minimum requirement for own funds and eligible liabilities ('M-MDA'), calculated in accordance with paragraph 4 of this Article, through any of the following actions:

- a make a distribution in connection with Common Equity Tier 1 capital;
- b create an obligation to pay variable remuneration or discretionary pension benefits, or to pay variable remuneration if the obligation to pay was created at a time when the entity failed to meet the combined buffer requirement; or
- c make payments on Additional Tier 1 instruments.

Where an entity is in the situation referred to in the first subparagraph, it shall immediately notify the resolution authority thereof.

2 In the situation referred to in paragraph 1, the resolution authority of the entity, after consulting the competent authority, shall without unnecessary delay assess whether to exercise the power referred to in paragraph 1, taking into account all of the following elements:

- a the reason, duration and magnitude of the failure and its impact on resolvability;
- b the development of the entity's financial situation and the likelihood of it fulfilling, in the foreseeable future, the condition referred to in point (a) of Article 32(1);
- c the prospect that the entity will be able to ensure compliance with the requirements referred to in paragraph 1 within a reasonable timeframe;
- d where the entity is unable to replace liabilities that no longer meet the eligibility or maturity criteria laid down in Articles 72b and 72c of Regulation (EU) No 575/2013, or in Article 45b or Article 45f(2) of this Directive, if that inability is idiosyncratic or is due to market-wide disturbance;
- e whether the exercise of the power referred to in paragraph 1 is the most adequate and proportionate means of addressing the situation of the entity, taking into account its potential impact on both the financing conditions and resolvability of the entity concerned.

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The resolution authority shall repeat its assessment of whether to exercise the power referred to in paragraph 1 at least every month for as long as the entity continues to be in the situation referred to in paragraph 1.

3 If the resolution authority finds that the entity is still in the situation referred to in paragraph 1 nine months after such situation has been notified by the entity, the resolution authority, after consulting the competent authority, shall exercise the power referred to in paragraph 1, except where the resolution authority finds, following an assessment, that at least two of the following conditions are fulfilled:

- a the failure is due to a serious disturbance to the functioning of financial markets which leads to broad-based financial market stress across several segments of financial markets;
- b the disturbance referred to in point (a) not only results in the increased price volatility of the own funds instruments and eligible liabilities instruments of the entity or increased costs for the entity, but also leads to a full or partial closure of markets which prevents the entity from issuing own funds instruments and eligible liabilities instruments on those markets;
- c the market closure referred to in point (b) is observed not only for the concerned entity, but also for several other entities;
- d the disturbance referred to in point (a) prevents the concerned entity from issuing own funds instruments and eligible liabilities instruments sufficient to remedy the failure; or
- e an exercise of the power referred to in paragraph 1 leads to negative spill-over effects for part of the banking sector, thereby potentially undermining financial stability.

Where the exception referred to in the first subparagraph applies, the resolution authority shall notify the competent authority of its decision and shall explain its assessment in writing.

Every month, the resolution authority shall repeat its assessment of whether the exception referred to in the first subparagraph applies.

4 The M-MDA shall be calculated by multiplying the sum calculated in accordance with paragraph 5 by the factor determined in accordance with paragraph 6. The M-MDA shall be reduced by any amount resulting from any of the actions referred to in points (a), (b) or (c) of paragraph 1.

5 The sum to be multiplied in accordance with paragraph 4 shall consist of:

- a any interim profits not included in Common Equity Tier 1 capital pursuant to Article 26(2) of Regulation (EU) No 575/2013, net of any distribution of profits or any payment resulting from the actions referred to in points (a), (b) or (c) of paragraph 1 of this Article;
- plus
- b any year-end profits not included in Common Equity Tier 1 capital pursuant to Article 26(2) of Regulation (EU) No 575/2013, net of any distribution of profits or any payment resulting from the actions referred to in points (a), (b) or (c) of paragraph 1 of this Article;
- minus
- c amounts which would be payable by tax if the items specified in points (a) and (b) of this paragraph were to be retained.

6 The factor referred to in paragraph 4 shall be determined as follows:

- a where the Common Equity Tier 1 capital maintained by the entity which is not used to meet any of the requirements set out in Article 92a of Regulation (EU) No 575/2013 and in Articles 45c and 45d of this Directive, expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013, is within the first (that is, the lowest) quartile of the combined buffer requirement, the factor shall be 0;
- b where the Common Equity Tier 1 capital maintained by the entity which is not used to meet any of the requirements set out in Article 92a of Regulation (EU) No 575/2013 and in Articles 45c and 45d of this Directive, expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013, is within the second quartile of the combined buffer requirement, the factor shall be 0,2;
- c where the Common Equity Tier 1 capital maintained by the entity which is not used to meet the requirements set out in Article 92a of Regulation (EU) No 575/2013 and in Articles 45c and 45d of this Directive, expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013, is within the third quartile of the combined buffer requirement, the factor shall be 0,4;
- d where the Common Equity Tier 1 capital maintained by the entity which is not used to meet the requirements set out in Article 92a of Regulation (EU) No 575/2013 and in Articles 45c and 45d of this Directive, expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013, is within the fourth (that is, the highest) quartile of the combined buffer requirement, the factor shall be 0,6;

The lower and upper bounds of each quartile of the combined buffer requirement shall be calculated as follows:

$$\text{Lower bound of quartile} = \frac{\text{Combined buffer requirement}}{4} \times (Q_n - 1)$$

$$\text{Upper bound of quartile} = \frac{\text{Combined buffer requirement}}{4} \times Q_n$$

where 'Q<sub>n</sub>' = the ordinal number of the quartile concerned.]

#### Textual Amendments

- 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](#).

### Article 17

#### Powers to address or remove impediments to resolvability

[<sup>F11</sup> Member States shall ensure that when, pursuant to an assessment of resolvability for an entity carried out in accordance with Articles 15 and 16, a resolution authority, after consulting the competent authority, determines that there are substantive impediments to the resolvability of that entity, that resolution authority shall notify in writing that determination to the entity

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concerned, to the competent authority and to the resolution authorities of the jurisdictions in which significant branches are located.]

2 The requirement for resolution authorities to draw up resolution plans and for the relevant resolution authorities to reach a joint decision on group resolution plans in Article 10(1) and Article 13(4) respectively shall be suspended following the notification referred to in paragraph 1 of this Article until the measures to remove the substantive impediments to resolvability have been accepted by the resolution authority pursuant to paragraph 3 of this Article or decided pursuant to paragraph 4 of this Article.

[<sup>F13</sup> Within four months of the date of receipt of a notification made in accordance with paragraph 1, the entity shall propose to the resolution authority possible measures to address or remove the substantive impediments identified in the notification.

The entity shall, within two weeks of the date of receipt of a notification made in accordance with paragraph 1 of this Article, propose to the resolution authority possible measures and the timeline for their implementation to ensure that the entity complies with Article 45e or 45f of this Directive and the combined buffer requirement, where a substantive impediment to resolvability is due to either of the following situations:

- a the entity meets the combined buffer requirement when considered in addition to each of the requirements referred to points (a), (b) and (c) of Article 141a(1) of Directive 2013/36/EU, but it does not meet the combined buffer requirement when considered in addition to the requirements referred to in Articles 45c and 45d of this Directive when calculated in accordance with point (a) of Article 45(2) of this Directive; or
- b the entity does not meet the requirements referred to in Articles 92a and 494 of Regulation (EU) No 575/2013 or the requirements referred to in Articles 45c and 45d of this Directive.

The timeline for the implementation of measures proposed under the second subparagraph shall take into account the reasons for the substantive impediment.

The resolution authority, after consulting the competent authority, shall assess whether the measures proposed under the first and second subparagraphs effectively address or remove the substantive impediment in question.

4 Where the resolution authority finds that the measures proposed by an entity in accordance with paragraph 3 do not effectively reduce or remove the impediments in question, it shall, either directly or indirectly through the competent authority, require the entity to take alternative measures that may achieve that objective, and notify in writing those measures to the entity, which shall propose within one month a plan to comply with them.

In identifying alternative measures, the resolution authority shall demonstrate how the measures proposed by the entity would not be able to remove the impediments to resolvability and how the alternative measures proposed are proportionate in removing them. The resolution authority shall take into account the threat that those impediments to resolvability present for financial stability and the effect of the measures on the business of the entity, its stability and its ability to contribute to the economy.]

5 For the purposes of paragraph 4, resolution authorities shall have the power to take any of the following measures:

- a require the [<sup>F1</sup>entity] to revise any intragroup financing agreements or review the absence thereof, or draw up service agreements, whether intra-group or with third parties, to cover the provision of critical functions;
- b require the [<sup>F1</sup>entity] to limit its maximum individual and aggregate exposures;

- c impose specific or regular additional information requirements relevant for resolution purposes;
  - d require the [F1entity] to divest specific assets;
  - e require the [F1entity] to limit or cease specific existing or proposed activities;
  - f restrict or prevent the development of new or existing business lines or sale of new or existing products;
  - g require changes to legal or operational structures of the [F1entity] or any group entity, either directly or indirectly under its control, so as to reduce complexity in order to ensure that critical functions may be legally and operationally separated from other functions through the application of the resolution tools;
  - h require an [F1entity] or a parent undertaking to set up a parent financial holding company in a Member State or a Union parent financial holding company;
  - [F2ha] require an institution or an entity referred to in point (b), (c) or (d) of Article 1(1) of this Directive to submit a plan to restore compliance with the requirements of Articles 45e or 45f of this Directive, expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013 and, where applicable, with the combined buffer requirement and with the requirements referred to in Article 45e or 45f of this Directive, expressed as a percentage of the total exposure measure referred to in Articles 429 and 429a of Regulation (EU) No 575/2013;
  - [F1i] require an institution or entity referred to in point (b), (c) or (d) of Article 1(1) to issue eligible liabilities to meet the requirements of Article 45e or Article 45f;
  - j require an institution or entity referred to in point (b), (c) or (d) of Article 1(1), to take other steps to meet the minimum requirement for own funds and eligible liabilities under Article 45e or Article 45f, including in particular to attempt to renegotiate any eligible liability, additional Tier 1 instrument or Tier 2 instrument it has issued, with a view to ensuring that any decision of the resolution authority to write down or convert that liability or instrument would be effected under the law of the jurisdiction governing that liability or instrument;
  - ja for the purpose of ensuring ongoing compliance with Article 45e or Article 45f, require an institution or entity referred to in point (b), (c) or (d) of Article 1(1), to change the maturity profile of:
    - (i) own funds instruments, after having obtained the agreement of the competent authority, and
    - (ii) eligible liabilities referred to in Article 45b and in point (a) of Article 45f(2);
  - k where an entity is the subsidiary of a mixed-activity holding company, requiring that the mixed-activity holding company set up a separate financial holding company to control the entity, if necessary in order to facilitate the resolution of the entity and to avoid the application of the resolution tools and the exercise of the powers referred to in Title IV having an adverse effect on the non-financial part of the group.]
- 6 A decision made pursuant to paragraph 1 or 4 shall meet the following requirements:
- a it shall be supported by reasons for the assessment or determination in question;
  - b it shall indicate how that assessment or determination complies with the requirement for proportionate application laid down in paragraph 4; and
  - c it shall be subject to a right of appeal.
- [F17 Before identifying any measure referred to in paragraph 4, the resolution authority, after consulting the competent authority and, if appropriate, the designated national macroprudential authority, shall duly consider the potential effect of those measures on the

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particular entity, on the internal market for financial services, and on the financial stability in other Member States and in the Union as a whole.]

8 EBA shall, by 3 July 2015, issue guidelines in accordance with Article 16 of Regulation (EU) No 1093/2010 to specify further details on the measures provided for in paragraph 5 and the circumstances in which each measure may be applied.

#### 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.

### Article 18

#### **Powers to address or remove impediments to resolvability: group treatment**

[<sup>F1</sup> The group-level resolution authority together with the resolution authorities of subsidiaries, after consulting the supervisory college and the resolution authorities of the jurisdictions in which significant branches are located insofar as is relevant to the significant branch, shall consider the assessment required by Article 16 within the resolution college and shall take all reasonable steps to reach a joint decision on the application of measures identified in accordance with Article 17(4) in relation to all resolution entities and their subsidiaries that are entities referred to in Article 1(1) and are part of the group.

2 The group-level resolution authority, in cooperation with the consolidating supervisor and EBA in accordance with Article 25(1) of Regulation (EU) No 1093/2010, shall prepare and submit a report to the Union parent undertaking, to the resolution authorities of subsidiaries, which shall provide it to the subsidiaries within their remit, and to the resolution authorities of jurisdictions in which significant branches are located. The report shall be prepared after consulting the competent authorities, and shall analyse the substantive impediments to the effective application of the resolution tools and the exercising of the resolution powers in relation to the group, and also in relation to resolution groups where a group is composed of more than one resolution group. The report shall consider the impact on the group's business model and recommend any proportionate and targeted measures that, in the view of the group-level resolution authority, are necessary or appropriate to remove those impediments.

Where an impediment to the resolvability of the group is due to a situation of a group entity referred to in the second subparagraph of Article 17(3), the group-level resolution authority shall notify its assessment of that impediment to the Union parent undertaking after consulting the resolution authority of the resolution entity and the resolution authorities of its subsidiary institutions.

3 Within four months of the date of receipt of the report, the Union parent undertaking may submit observations and propose to the group-level resolution authority alternative measures to remedy the impediments identified in the report.

Where the impediments identified in the report are due to a situation of a group entity referred to in the second subparagraph of Article 17(3) of this Directive, the Union parent undertaking shall, within two weeks of the date of receipt of a notification



made in accordance with the second subparagraph of paragraph 2 of this Article, propose to the group-level resolution authority possible measures and the timeline for their implementation to ensure that the group entity complies with the requirements referred to in Articles 45e or 45f of this Directive expressed as a percentage of the total risk exposure amount calculated in accordance with Article 92(3) of Regulation (EU) No 575/2013 and, where applicable, with the combined buffer requirement, and with the requirements referred to in Article 45e and 45f of this Directive expressed as a percentage of the total exposure measure referred to in Articles 429 and 429a of Regulation (EU) No 575/2013.

The timeline for the implementation of measures proposed under the second subparagraph shall take into account the reasons for the substantive impediment. The resolution authority, after consulting the competent authority, shall assess whether those measures effectively address or remove the substantive impediment.

4 The group-level resolution authority shall communicate any measure proposed by the Union parent undertaking to the consolidating supervisor, EBA, the resolution authorities of the subsidiaries and the resolution authorities of the jurisdictions in which significant branches are located insofar as is relevant to the significant branch. The group-level resolution authorities and the resolution authorities of the subsidiaries, after consulting the competent authorities and the resolution authorities of jurisdictions in which significant branches are located, shall do everything within their power to reach a joint decision within the resolution college regarding the identification of substantive impediments, and if necessary, the assessment of the measures proposed by the Union parent undertaking and the measures required by the authorities in order to address or remove the impediments, which shall take into account the potential impact of the measures in all Member States where the group operates.

5 The joint decision shall be reached within four months of submission of any observations by the Union parent undertaking. Where the Union parent undertaking has not submitted any observations, the joint decision shall be reached within one month from the expiry of the four-month period referred to in the first subparagraph of paragraph 3.

The joint decision concerning the impediment to resolvability due to a situation referred to in the second subparagraph of Article 17(3) shall be reached within two weeks of the submission of any observations by the Union parent undertaking in accordance with paragraph 3 of this Article.

The joint decision shall be reasoned and set out in a document which shall be provided by the group-level resolution authority to the Union parent undertaking.

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

6 In the absence of a joint decision within the relevant period referred to in paragraph 5, the group-level resolution authority shall make its own decision on the appropriate measures to be taken in accordance with Article 17(4) at the group level.

The decision shall be fully reasoned and shall take into account the views and reservations of other resolution authorities. The decision shall be provided to the Union parent undertaking by the group-level resolution authority.

If, at the end of the relevant period referred to in paragraph 5 of this Article, a resolution authority has referred a matter mentioned in paragraph 9 of this Article to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010, the group-level resolution authority shall defer its decision and await any decision that EBA may

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take in accordance with Article 19(3) of that Regulation, and shall take its decision in accordance with the decision of EBA. The relevant period referred to in paragraph 5 of this Article shall be deemed to be the conciliation period within the meaning of Regulation (EU) No 1093/2010. EBA shall take its decision within one month. The matter shall not be referred to EBA after the end of the relevant period referred to in paragraph 5 of this Article or after a joint decision has been reached. In the absence of an EBA decision, the decision of the group-level resolution authority shall apply.

6a In the absence of a joint decision within the relevant period referred to in paragraph 5 of this Article, the resolution authority of the relevant resolution entity shall make its own decision on the appropriate measures to be taken in accordance with Article 17(4) at the resolution group level.

The decision referred to in the first subparagraph shall be fully reasoned and shall take into account the views and reservations of resolution authorities of other entities of the same resolution group and the group-level resolution authority. The decision shall be provided to the resolution entity by the relevant resolution authority.

If, at the end of the relevant period referred to in paragraph 5 of this Article, a resolution authority has referred a matter mentioned in paragraph 9 of this Article to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010, the resolution authority of the resolution entity shall defer its decision and await any decision that EBA may take in accordance with Article 19(3) of that Regulation, and shall take its decision in accordance with the decision of EBA. The relevant period referred to in paragraph 5 of this Article shall be deemed to be the conciliation period within the meaning of Regulation (EU) No 1093/2010. EBA shall take its decision within one month. The matter shall not be referred to EBA after the end of the relevant period referred to in paragraph 5 of this Article or after a joint decision has been reached. In the absence of an EBA decision, the decision of the resolution authority of the resolution entity shall apply.

7 In the absence of a joint decision, the resolution authorities of subsidiaries that are not resolution entities shall make their own decisions on the appropriate measures to be taken by subsidiaries at individual level in accordance with Article 17(4).

The decision shall be fully reasoned and shall take into account the views and reservations of the other resolution authorities. The decision shall be provided to the subsidiary concerned and to the resolution entity of the same resolution group, to the resolution authority of that resolution entity and, where different, to the group-level resolution authority.

If, at the end of the relevant period referred to in paragraph 5 of this Article, a resolution authority has referred a matter mentioned in paragraph 9 of this Article to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010, the resolution authority of the subsidiary shall defer its decision and await any decision that EBA may take in accordance with Article 19(3) of that Regulation, and shall take its decision in accordance with the decision of EBA. The relevant period referred to in paragraph 5 of this Article shall be deemed to be the conciliation period within the meaning of Regulation (EU) No 1093/2010. EBA shall take its decision within one month. The matter shall not be referred to EBA after the end of the relevant period referred to in paragraph 5 of this Article or after a joint decision has been reached. In the absence of an EBA decision, the decision of the resolution authority of the subsidiary shall apply.]

8 The joint decision referred to in paragraph 5 and the decisions taken by the resolution authorities in the absence of a joint decision referred to in paragraph 6 shall be recognised as conclusive and applied by the other resolution authorities concerned.

9 In the absence of a joint decision on the taking of any measures referred to in point (g), (h) or (k) of Article 17(5), EBA may, upon the request of a resolution authority in accordance with paragraph 6 or 7 of this Article, assist the resolution authorities in reaching an agreement in accordance with Article 19(3) of Regulation (EU) No 1093/2010.

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**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](#).