











Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) 2023/0113(COD) Directive</p>	Procedure completed
<p>Certain aspects of the minimum requirement for own funds and eligible liabilities</p> <p>Amending Directive 2014/59 2012/0150(COD) Amending Regulation 2014/806 2013/0253(COD)</p> <p>Subject 2.50.03 Securities and financial markets, stock exchange, CIUTS, investments 2.50.04 Banks and credit 2.50.08 Financial services, financial reporting and auditing 2.50.10 Financial supervision</p> <p>Legislative priorities Joint Declaration 2023-24</p>	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Economic and Monetary Affairs	 FERNÁNDEZ Jonás	30/05/2023
		Shadow rapporteur	
		 KARAS Othmar	
		 POULSEN Erik	
		 PETER-HANSEN Kira	
		 ZANNI Marco	
		 VAN OVERTVELDT Johan	
		 SCHIRDEWAN Martin	
	Committee for opinion	Rapporteur for opinion	Appointed
	 Budgets	The committee decided not to give an opinion.	
	 Legal Affairs	The committee decided not to give an opinion.	

Key events

18/04/2023	Legislative proposal published	COM(2023)0229	Summary
12/06/2023	Committee referral announced in Parliament, 1st reading		
07/11/2023	Vote in committee, 1st reading		
07/11/2023	Committee decision to open interinstitutional negotiations with report adopted in committee		
08/11/2023	Committee report tabled for plenary, 1st reading	A9-0344/2023	Summary
20/11/2023	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
22/11/2023	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71)		
11/01/2024	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE757.980 PE757.982	
27/02/2024	Decision by Parliament, 1st reading	T9-0088/2024	Summary
26/03/2024	Act adopted by Council after Parliament's 1st reading		
11/04/2024	Final act signed		
22/04/2024	Final act published in Official Journal		

Technical information

Procedure reference	2023/0113(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Amending Directive 2014/59 2012/0150(COD) Amending Regulation 2014/806 2013/0253(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 114
Other legal basis	Rules of Procedure EP 159
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	ECON/9/11818

Legislative proposal	COM(2023)0229	18/04/2023	EC	Summary
European Central Bank: opinion, guideline, report	CON/2023/0019 OJ C 307 31.08.2023, p. 0019	05/07/2023	ECB	
Economic and Social Committee: opinion, report	CES6298/2022	13/07/2023	ESC	
Committee draft report	PE752.913	11/09/2023	EP	
Amendments tabled in committee	PE753.738	03/10/2023	EP	
Committee report tabled for plenary, 1st reading/single reading	A9-0344/2023	08/11/2023	EP	Summary
Text agreed during interinstitutional negotiations	PE757.980	20/12/2023	EP	
Text adopted by Parliament, 1st reading/single reading	T9-0088/2024	27/02/2024	EP	Summary
Draft final act	00094/2023/LEX	11/04/2024	CSL	

Final act

[Directive 2024/1174](#)
OJ OJ L 22.04.2024

Certain aspects of the minimum requirement for own funds and eligible liabilities

PURPOSE: to adjust the treatment of liquidation entities under the MREL framework and the possibilities to comply with the internal MREL on a consolidated basis.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the EU crisis management framework is well-established, however, recent episodes of bank failures have shown that there is need for improvements. The proposed amendments to Directive 2014/59/EU (the Bank Recovery and Resolution Directive or BRRD) and to Regulation (EU) No 806/2014 (the Single Resolution Mechanism Regulation or SRMR) are part of the crisis management and deposit insurance legislative package.

Directive (EU) 2019/879 of the European Parliament and of the Council and Regulation (EU) 2019/877 of the European Parliament and of the Council amended the minimum capital and eligible liabilities requirement (the MREL) set out in Directive 2014/59/EU of the European Parliament and of the Council and Regulation (EU) No 806/2014 of the European Parliament and of the Council, which applies to credit institutions and investment firms established in the Union and any other entity falling within the scope of Directive 2014/59/EU or Regulation (EU) No 806/2014.

The EU MREL framework was further amended by Regulation (EU) 2022/2036 of the European Parliament and of the Council, which established methods for the indirect subscription of instruments eligible for meeting the internal MREL.

A Commission review found that it would be appropriate and proportionate to the objectives pursued by the internal MREL rules to allow resolution authorities to set the internal MREL on a consolidated basis for a range of entities that is wider than the range resulting from the application of Directive 2014/59/EU and Regulation (EU) No 806/2014, where such wider range covers institutions and entities that are not resolution entities themselves, but that are subsidiaries of resolution entities and control themselves subsidiaries subject to MREL (intermediate entities).

The aim of the CMDI reform is to build on the objectives of the crisis management framework and to ensure a more consistent approach to resolution, so that any bank in crisis can exit the market in an orderly manner, while preserving financial stability, taxpayer money and ensuring depositor confidence. In particular, the existing resolution framework for smaller and medium-sized banks needs to be strengthened with respect to its design, implementation and, most importantly, incentives for its application, so that it can be more credibly applied to those banks.

CONTENT: the Commission therefore proposes to amend Directive 2014/59/EU and Regulation (EU) No 806/2014 as regards certain aspects of the minimum requirement for own funds and eligible liabilities in order to adjust the treatment of liquidation entities under the MREL framework and the possibilities to comply with the internal minimum requirement for own funds and eligible liabilities on a consolidated basis.

The proposed amendments will contribute to the resolvability of banks by improving the functioning and proportionality of the deduction mechanism, and will ensure that it does not create level playing field issues between different banking group structures.

The proposal lays down:

- a new definition, according to which references to liquidation entities should be understood as references to entities whose resolution plan

provides for the respective winding up in an orderly manner in accordance with the applicable national law in case of failure;

- a general rule that resolution authorities should not determine MREL for liquidation entities;
- clarification on the application of prior permissions regime to liquidation entities;
- provisions on liquidation entities as part of daisy chain structures;
- a new article providing that holdings of own funds instruments or liabilities issued by liquidation entities that would no longer be subject to an MREL decision should not be deducted by the intermediate parent under the daisy chain deduction rules;
- simplifying the provisions on reporting for liquidation entities;
- measures to give the resolution authority the discretionary power to set internal MREL on a consolidated basis to a subsidiary of a resolution entity. The setting of internal MREL on a consolidated basis removes the possibility for the resolution authority to set internal MREL on an individual basis for that same entity.

Certain aspects of the minimum requirement for own funds and eligible liabilities

The Committee on Economic and Monetary Affairs adopted the report by Jonás FERNÁNDEZ (S&D, ES) on the proposal for a directive of the European Parliament and of the Council amending Directive 2014/59/EU and Regulation (EU) No 806/2014 as regards certain aspects of the minimum requirement for own funds and eligible liabilities (MREL).

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

Members recalled the aim of the Directive which is to adjust the treatment of liquidation entities under the MREL framework and the possibilities to comply with the internal minimum requirement for own funds and eligible liabilities on a consolidated basis.

The definition of liquidation entity has been amended: it means a legal person established in a participating Member State in respect of which the group resolution plan or, for entities that are not part of a group, the resolution plan, provides that the entity is to be wound up under normal insolvency proceedings; or with regard to an entity within a resolution group other than a resolution entity, the group resolution plan does not envisage the exercise of the write-down and conversion powers with respect to that entity.

The proposal amends Directive 2014/59/EU (the Bank Recovery and Resolution Directive or BRRD) and to Regulation (EU) No 806/2014 (the Single Resolution Mechanism Regulation or SRMR) laying down a general rule that resolution authorities should not determine MREL for liquidation entities.

By way of derogation, the resolution authority may assess whether it is justified to determine the requirement for a liquidation entity on an individual basis in an amount exceeding the amount sufficient to absorb losses, taking into account, in particular, any possible impact on financial stability and on the risk of contagion to the financial system.

This amending Directive should respect the principles of the original review mandate to the Commission by the European Parliament and the Council to ensure proportionality and a level playing field between different types of banking group structures.

Certain aspects of the minimum requirement for own funds and eligible liabilities

The European Parliament adopted by 485 votes to 35, with 104 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council amending Directive 2014/59/EU and Regulation (EU) No 806/2014 as regards certain aspects of the minimum requirement for own funds and eligible liabilities.

The proposed Directive aims to amend Directive 2014/59/EU (the Bank Recovery and Resolution Directive or BRRD) and to Regulation (EU) No 806/2014 (the Single Resolution Mechanism Regulation or SRMR) as regards certain aspects of the minimum requirement for own funds and eligible liabilities in order to adjust the treatment of liquidation entities under the MREL framework and the possibilities to comply with the internal minimum requirement for own funds and eligible liabilities on a consolidated basis.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the Commission's proposal as follows:

Definition of a liquidation entity

The amended text stated that having clarity on what constitutes a liquidation entity is essential for the proper functioning of the deduction and consolidation frameworks and for calculating the MREL for specific entities.

To that end, a definition of liquidation entity should be laid down, focusing on the identification of liquidation entities at the stage of resolution planning. Therefore, resolution authorities should carry out a proper assessment of institutions and entities within the scope of Directive 2014/59/EU and Regulation (EU) No 806/2014 when drawing up resolution plans. A central part of that assessment is identifying whether the institution or entity carries out critical functions. Without prejudice to the assessment of the importance of the institution or entity at national or regional level, a thorough analysis of the relevance of the potential liquidation entity within a resolution group is also expected to be carried out. An institution or entity that represents a significant part of the total risk exposure amount, leverage ratio exposure or operating income of a resolution group should not in principle be identified as a liquidation entity.

Application of the minimum requirement

By way of derogation, the Board may assess whether it is justified to determine the requirement for a liquidation entity on an individual basis in an amount exceeding the amount sufficient to absorb losses. The Board should take into account in its assessment, in particular, any possible impact on financial stability and on the risk of contagion to the financial system, including with regard to the financing capacity of deposit guarantee schemes.

A resolution authority may decide to determine the minimum requirement for own funds and eligible liabilities on a consolidated basis for a subsidiary where the resolution authority concludes that all of the following conditions are met: (i) the credibility and feasibility of the group resolution strategy; (ii) the subsidiary's capacity to comply with its own funds requirement after the exercise of write-down and conversion powers; and (iii) the adequacy of the internal loss transfer and recapitalisation mechanism, including the write-down or conversion of relevant capital instruments and eligible liabilities of the subsidiary concerned or of other entities in the resolution group.

Transposition

To ensure consistency, the amendments to Regulation (EU) No 806/2014 and the national measures transposing the amendments to Directive 2014/59/EU should apply from the same date.

The amended text stressed however that it is appropriate to provide for an earlier application date in respect of the amendments to the provisions concerning the possibility to comply with the consolidated internal MREL, in order to cater for the need of resolution authorities to adopt new decisions determining the MREL for that purpose and to increase legal certainty for the banking groups that would be subject to that provision in view of the general MREL compliance deadline of 1 January 2024 laid down in Directive 2014/59/EU and Regulation (EU) No 806/2014.

For that reason, the new rules on the consolidated internal MREL under Regulation (EU) No 806/2014 should apply one day after the date of entry into force of this amending Directive. That would also signal to all banking groups and resolution authorities to which Directive 2014/59/EU and Regulation (EU) No 806/2014 apply that measures may be necessary to bridge the period from 1 January 2024 until the application date of the national measures transposing the provisions of this amending Directive.

Transparency				
FERNÁNDEZ Jonás	Rapporteur	ECON	06/10/2023	ING Group
URTASUN Ernest	Shadow rapporteur	ECON	26/09/2023	Permanent Representation to the EU of Portugal
URTASUN Ernest	Shadow rapporteur	ECON	22/09/2023	Permanent Representation to the EU of Spain
SCHIRDEWAN Martin	Shadow rapporteur	ECON	19/09/2023	Finance Watch
FERBER Markus	Member	27/02/2024	National Association of German Cooperative Banks	