

Bank recovery and resolution: loss-absorbing and recapitalisation capacity of credit institutions and investment firms

2016/0362(COD) - 23/11/2016 - Legislative proposal

PURPOSE: to revise the Minimum Requirement for own funds and Eligible Liabilities (MREL) and implement the total loss absorbing capacity (TLAC) for credit institutions and investment firms.

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 Council.

BACKGROUND: [Directive 2014/59/EU of the European Parliament and the Council](#) on the Bank Recovery and Resolution Directive (BRRD) and [Regulation \(EU\) 806/2014 of the European Parliament and of the Council](#) establishing the Single Resolution Mechanism Regulation (SRMR) adopted in 2014 laid down the rules on the recovery and resolution of failing institutions and establish the Single Resolution Mechanism, respectively. This framework has mandated resolution authorities to set for each credit institution or investment firm a minimum requirement for own funds and eligible liabilities ('MREL'), which consist of highly bail-in-able liabilities to be used to absorb losses and recapitalise institutions in case of failures.

In 2015, the G-20 endorsed the Total Loss-Absorbing Capacity (TLAC) Term Sheet published by the Financial Stability Board (FSB) in 2015. The TLAC standard requires global systemically important institutions ('G-SIIs') in the Union framework, to hold a sufficient minimum amount of highly loss absorbing (bail-in-able) liabilities to ensure smooth and fast absorption of losses and recapitalisation in resolution.

IMPACT ASSESSMENT: the Commission conducted an impact assessment of several policy alternatives. Under the preferred option, the TLAC standard for G-SIIs would be integrated in the existing resolution framework, while that framework would be amended as appropriate to ensure full compatibility with the TLAC standard.

CONTENT: the main objective of the proposed amendments to Directive 2014/59/EU is to implement the TLAC standard and to integrate the TLAC requirement into the general MREL rules by avoiding duplication by applying two parallel requirements. Although TLAC and MREL pursue the same regulatory objective, there are, nevertheless, some differences between them in the way they are constructed. The scope of application of MREL covers not only G-SIIs, but the entire Union banking industry.

The proposed amendments to Directive 2014/59/EU (the Bank Recovery and Resolution Directive) are part of a legislative package that includes also amendments to [Regulation \(EU\) No 575/2013](#) (the Capital Requirements Regulation), to [Directive 2013/36/EU](#) (the Capital Requirements Directive) and to [Regulation \(EU\) 806/2014](#) (the Single Resolution Mechanism Regulation).