

**COMMISSION DELEGATED REGULATION (EU) 2015/63****of 21 October 2014****supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to *ex ante* contributions to resolution financing arrangements**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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 <sup>(1)</sup>, and in particular Article 103(7) and (8) thereof,

Whereas:

- (1) Directive 2014/59/EU requires Member States to establish resolution financing arrangements for the purpose of ensuring the effective application by the resolution authority of the resolution tools and powers. Those resolution financing arrangements should have adequate financial resources to allow for an effective functioning of the resolution framework and are therefore empowered to raise *ex-ante* contributions from the institutions authorised in their territory including Union branches (institutions).
- (2) Member States are obliged to raise *ex ante* contributions to resolution financing arrangements not only from institutions, but in accordance with Article 103(1) of that Directive also from Union branches. Union branches are also covered by the empowerments of the Commission to adopt delegated acts pursuant to Article 103(7) and (8) of that Directive. However, in consideration of the fact, by virtue of Article 47 of Directive 2013/36/EU of the European Parliament and of the Council <sup>(2)</sup>, that the prudential requirements and supervisory treatment of Union branches fall under the responsibility of Member States, many of the risk adjustment metrics set out in this Delegated Regulation are not appropriate to apply directly to the Union branches. Therefore, while Union branches do not fall within the scope of this Regulation, they may be subject to a specific regime developed by the Commission in a future Delegated Act.
- (3) Pursuant to Articles 6, 15, 16, 95 and 96 of Regulation (EU) No 575/2013 of the European Parliament and of the Council <sup>(3)</sup>, certain investment firms which are authorized to carry out only limited services and activities are not subject or may be exempted from certain capital and liquidity requirements. Consequently, many of the risk adjustment metrics that should be set out would not apply to them. Whilst Member States are subject to the obligation to raise *ex ante* contributions from these investment firms in accordance with Article 103(1) of Directive 2014/59/EU, it is appropriate to leave to Member States the power of establishing the risk adjustment in order not to disproportionately burden these firms. Those investment firms should therefore not fall within the scope of this Regulation.
- (4) In accordance with Article 102(1) of Directive 2014/59/EU, Member States should ensure that, within a period starting from the entry into force of the Directive until 31 December 2024, the available financial means of their financing arrangements reach at least 1 % of the amount of covered deposits of all the institutions authorised in their territory. During that period of time, contributions to the financing arrangements should be spread out in time as evenly as possible until the target level is reached, by taking into account of the phase of the business cycle and the impact that pro-cyclical contributions may have on the financial position of contributing institutions.
- (5) Article 103(1) of Directive 2014/59/EU requires that contributions be raised at least annually in order to reach the target level specified in Article 102 of that Directive. Pursuant to Article 103(2) of Directive 2014/59/EU,

<sup>(1)</sup> OJ L 173, 12.6.2014, p. 190.

<sup>(2)</sup> Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

<sup>(3)</sup> Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

annual contribution should reflect an institution's size, as the contribution should be based on a fixed amount determined on the basis of that institution's liabilities (basic annual contribution); second, it reflects the risk level of the relevant activities of an institution as the basic annual contribution should be adjusted in proportion to the risk profile of that institution (additional risk adjustment). The size of an institution represents a first indicator of the risk posed by an institution. The larger an institution is, the more likely it is that, in case of distress, the resolution authority would consider it in the public interest to resolve that institution and to make use of the resolution financing arrangement to ensure an effective application of the resolution tools.

- (6) To clarify how resolution authorities should adjust the contributions in proportion to the risk profile of institutions it is necessary to specify the risk pillars and indicators which should be used to determine the risk profile of institutions, the mechanism for applying the risk adjustment to the basic annual contribution, and the basic annual contribution, as the starting point for the risk adjustment. Those elements which would supplement the risk criteria provided for in Article 103(7) of Directive 2014/59/EU should be established in a way to preserve a level playing field among the Member States and a strong internal market by avoiding discrepancies between Member States' approaches to the calculation of contributions to their respective resolution financing arrangements. This allows contributions paid by institutions to the resolution financing arrangements to be comparable and predictable across types of banks, which is an important element of a level playing field in the internal market.
- (7) Article 5(1) of Regulation (EU) No 806/2014 of the European Parliament and of the Council<sup>(1)</sup> provides that the Single Resolution Board (the Board) established by Article 42(1) of that Regulation is considered, for the application of that Regulation and of Directive 2014/59/EU, as the relevant national resolution authority where it performs tasks and exercises powers which, pursuant to that Directive are to be performed or exercised by the national resolution authority. Considering that Article 70(7) of Regulation (EU) No 806/2014 empowers the Board to calculate the contributions of institutions to the Single Resolution Fund which would replace the financing arrangements of the participant Member States in the Single Resolution Mechanism as of 1 January 2016 by applying this Regulation based on Article 103(7) of Directive 2014/59/EU, the notion of resolution authority under this Regulation should also include the Board.
- (8) The calculation of contributions at individual level would lead, in case of groups, to the double counting of certain liabilities when determining the basic annual contribution of the different group entities, since the liabilities related to the agreements that the entities of the same group conclude with each other would be, part of the total liabilities to be considered to determine the basic annual contribution of each entity of the group. Therefore, the determination of the basic annual contribution should be further specified in case of groups to reflect the interconnectedness of the group entities and avoid double counting intragroup exposures. In order to ensure a level playing field between entities which are part of a group and institutions which are members of the same IPS or are permanently affiliated to the same central body, the same treatment should apply to the latter.
- (9) For the purpose of calculating the basic annual contribution of a group entity, the total liabilities to be considered should not include the liabilities arisen from any contract which that group entity concluded with any other entity which is part of the same group. However, such exclusion should only be possible where each group entity is established in the Union, is included in the same consolidation on a full basis, is subject to an appropriate centralized risk evaluation, measurement and control procedures, and if there are no current or foreseen material practical or legal impediments to the prompt repayment of the relevant liabilities when due. This should prevent liabilities from being excluded from the basis of calculation of the contributions if there are no guarantees that intragroup lending exposures would be covered where the financial health of the group deteriorates. Moreover, to avoid that the exclusion of intragroup liabilities grants an advantage to group entities which benefit from this exemption, such exclusion should not allow the institutions concerned to benefit from the simplified contribution system granted to small institutions, where, following the exclusion of intragroup liabilities, an institution would qualify for the simplified system. In order to ensure a level playing field between entities which are part of a group and institutions which are members of the same IPS or are permanently affiliated to the same central body, the same treatment should apply to the latter.

<sup>(1)</sup> Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.7.2014, p. 1).

- (10) By way of derogation from the rule that the calculation of contributions should be performed at individual level, in the case of a central body with credit institutions affiliated to it that are wholly or partially exempted from prudential requirements in national law in accordance with Article 10 of Regulation (EU) No 575/2013 of the European Parliament and of the Council, the rules on *ex ante* contributions should only apply to the central body and the affiliated credit institutions as a whole on a consolidated basis because the solvency and liquidity of the central body and of all the affiliated institutions are monitored as a whole on the basis of consolidated accounts of these institutions.
- (11) The determination of the basic annual contribution should also be further specified in case of financial market infrastructures (FMIs). Some FMIs such as central counterparties (CCPs) or central securities depositories (CSDs) are also authorized as credit institutions. Notably some CSDs provide banking-type services which are ancillary to their activity as market infrastructures. Contrary to credit institutions, CSDs do not hold covered deposits but mostly intraday or overnight balances resulting from the settlement of the securities transactions they provide to financial institutions or central banks. Generally these do not result in cash balances which could be assimilated to funding raised in order to perform banking activities. As the banking-type services performed by FMIs are ancillary to their main activities of clearing or settlement for which those entities are subject to strict prudential requirements under Regulations (EU) No 648/2012 <sup>(1)</sup> and (EU) No 909/2014 <sup>(2)</sup> of the European Parliament and of the Council, as well as the relevant provisions under Regulation (EU) No 575/2013 and Directive 2013/36/EU, and as the business model of the FMIs does not entail risks comparable to those of a credit institution, only the liabilities related to the banking-type activities of those entities should be taken into account when determining the amount of their total liabilities for the purpose of calculating their basic annual contribution.
- (12) Accounting of derivatives is not harmonized in the Union with respect to individual accounts and therefore this could have an implication in the amount of liabilities to be considered for the calculation of the contributions of each bank. The leverage ratio methodology referred to in Article 429(6) and (7) of Regulation (EU) No 575/2013 applies to all banks and ensures that the same derivative contract, and in particular the netting between derivative contracts, will be considered in the same manner irrespective of the accounting framework to which that bank is subject. Therefore, to ensure a harmonised treatment of derivatives in the determination of the basic annual contribution allowing for the comparability of their valuation between institutions and for a level playing field across the Union, derivatives should be valued in accordance with Article 429(6) and (7) of Regulation (EU) No 575/2013. However, to ensure the predictability of the valuation of derivatives under Regulation (EU) No 575/2013, it should be foreseen that such valuation may not lead to a value which is less than 75 % of the value of the derivatives concerned under the relevant accounting framework.
- (13) Some credit institutions are promotional banks whose purpose is to advance the public policy objectives of a Member State's central or regional government, or local authority predominantly through the provision of promotional loans on a non-competitive, not for profit basis. The loans that such institutions grant are directly or indirectly partially guaranteed by the central or regional government or the local authority. Promotional loans are granted on a non-competitive, not for profit basis in order to promote public policy objectives of the Union or a Member State's central or regional government. The promotional loans are sometimes extended via another institution as intermediary (pass through loans). In such cases, the intermediary credit institution receives promotional loans from a multilateral development bank or a public sector entity and extends them to other credit institutions which would provide them to the final clients. As the intermediary credit institutions pass through liquidity of these loans from the originating promotional bank towards a lending institution or another intermediary institution, such liabilities should not be included in the total liabilities to be considered for the purpose of calculating the basic annual contribution.
- (14) Article 103(1) of Directive 2014/59/EU requires all institutions to contribute to the resolution financing arrangements. However, a proportionate and fair balance needs to be found between the obligation of any institution to contribute to a resolution financing arrangement, and its size, risk profile, the scope and complexity of its activities, its interconnectedness to the other institutions or to the financial system in general, the impact of its failure on the financial markets, on other institutions, on funding conditions, or on the wider economy, and therefore the probability that an institution enters into resolution and makes use of the financing arrangement. Such elements are taken into account by the resolution authorities, pursuant to Article 4 of Directive 2014/59/EU, when deciding whether certain institutions should benefit from simplified obligations as

<sup>(1)</sup> Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

<sup>(2)</sup> Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1).

regards the requirements to prepare recovery and resolution plans. Also, the administrative burden deriving for certain institutions and resolution authorities from the calculation of the annual contributions should be taken into account when assessing the right balance between complying with the requirements set out in Directive 2014/59/EU and the specificities of the various institutions subject to that Directive.

- (15) Small institutions do not generally have a high risk profile, are often less systemically risky compared to large institutions, and, in many cases, the impact of their failure on the wider economy is lower than that of large institutions. At the same time, the potential impact of the failure of small institutions on the financial stability cannot be ruled out as even small institutions can create systemic risk because of their role in the wider banking system, the cumulative effects of their networks, or the contagion effect that they might create through the loss of confidence in the banking system.
- (16) Considering that in most cases small institutions do not pose systemic risk and are less likely to be placed under resolution, which consequently decreases the likelihood that they benefit from the resolution financing arrangements, compared to large institutions, the methodology for calculating their annual contributions to the resolution financing arrangements should be simplified. The annual contributions of small institutions should consist of a lump-sum based only on their basic annual contribution, proportioned to their size. Such a methodology should allow for a proportionate system of annual contributions as, in determining the annual contribution of each institution, the resolution authority has to comply with an annual target level of the financing arrangement. Therefore, a lump-sum reflects the fact that, in many cases, small institutions are less risky and allows for a wider adjustment of the contribution of larger institutions, which are generally more systemic, in proportion to their risk profile.
- (17) To determine which institutions are considered small, a double threshold should be used whereby the first threshold based on total liabilities (excluding own funds) less covered deposits should be equal or less to EUR 300 million, and the second threshold based on the total assets should not exceed EUR 1 billion. The latter should prevent larger institutions which meet the first threshold related to the amount of liabilities from benefitting from the simplified system.
- (18) A distinction should be made within the category of small institutions as some are very small, while others are close to the maximum thresholds allowing them to benefit from the simplified system. Under a single lump-sum system, the annual contributions of very small institutions would be disproportionately higher than those of the small institutions which are close to reaching the maximum thresholds. At the same time, it should be avoided that the simplified system leads to a disproportionate difference in terms of annual contributions between the biggest among small institutions and the institutions which do not qualify for the simplified system as they are just above the thresholds. To avoid such unwanted effects it is therefore appropriate to foresee a system of several categories of small institutions whose annual contributions should consist of different lump sum amounts. This should allow for a progression of contributions within the simplified system, and between the highest lump sum and the lowest contribution pursuant to the method whereby the basic annual contribution is adjusted according to the risk profile of the institution.
- (19) Where the resolution authority determines that a small institution has a particularly high risk profile, the resolution authority should have the ability to decide that the institution concerned should no longer benefit from the simplified system, but its contribution should instead be calculated pursuant to the method whereby the basic annual contribution is adjusted according to risk factors other than the institution's size.
- (20) Institutions referred to in Article 45(3) of Directive 2014/59/EU will not be recapitalized through the use of the resolution financing arrangements in accordance with Articles 44 and 101 of Directive 2014/59/EU because they will be wound-up through national insolvency procedures, or other types of procedure implemented in accordance with Article 38, 40 or 42 of Directive 2014/59/EU and will cease their activities. These procedures ensure that creditors of those institutions, including holders of covered bonds where relevant, will bear the losses in a way that meets the resolution objectives. Therefore, their contributions to the resolution financing arrangements should reflect these specificities. The resolution financing arrangements could, however, be used for the other purposes referred to in Article 101 of Directive 2014/59/EU. In case any such institution uses the resolution financing arrangement for any of such purposes, the resolution authority should be able to compare the risk profile of all other institutions covered by Article 45(3) of Directive 2014/59/EU with that of the institution which used the resolution financing arrangement and apply the methodology set out in this Delegated Act to those institutions which present a risk profile similar or higher than that of the institutions which used the

resolution financing arrangement. It is also appropriate to establish a list of elements that the resolution authority should take into account when carrying out the comparison of risk profiles.

- (21) In order to enable the resolution authorities of the Member States to have a harmonised interpretation of the criteria set out in Article 103(7) of Directive 2014/59/EU so that the determination of the risk indicator of institutions for the purpose of calculating the individual contributions to the resolution financing arrangements is carried out in a similar manner across the Union, a number of risk pillars, and corresponding risk indicators for each of those risk pillars, should be provided for, to be taken into account by the resolution authorities when assessing the risk profile of institutions. To ensure consistency with the supervisory practices, the risk indicators should consist of current regulatory benchmarks already available or in the course of being established.
- (22) Where the relevant legislation provides for waivers that exempt institutions from setting some of the risk indicators at the institution's level, and provided, where applicable, that the competent authorities authorise the application of such waivers, the resolution authorities should assess the relevant indicators at consolidated level or sub-consolidated, as applicable, in order to be consistent with the supervisory practice and ensure that groups that make use of those waivers are not unduly penalized.
- (23) In order to enable the resolution authorities to have a consistent approach as to the importance of the risk pillars and indicators that they should take into account for the purpose of determining the risk profile of institutions, this Regulation should also determine the relative weight of each risk pillar and indicator. It is important, however, that resolution authorities be granted enough flexibility in assessing the risk profile of institutions by being able to modulate the application of risk pillars and indicators in accordance to the specificities of each institution. As this cannot be achieved exclusively by providing for a range for assessing the risk profile, but requires a certain degree of discretion in deciding upon the importance of certain risk indicators on a case by case basis, the weight of some risk indicators should only be indicative, or a range should be set out in their respect to allow the resolution authorities to decide upon the relevance of those indicators in a given case.
- (24) When determining the importance of the various indicators corresponding to a given pillar, aggregation within pillars should be done by means of an arithmetic weighted average of the individual indicators. As regards the calculation of final composite risk indicator corresponding to each institution, to avoid compensation effects between pillars whereby an institution performing moderately well under several pillars and very poorly under another would generally be given a middle score pursuant to an arithmetic average of the different pillars, such calculation should be based on the geometric weighted average of the individual pillars.
- (25) The range for assessing the degree of risk posed by an institution should be such to allow for a sufficient modulation of the risk profile of institutions according to the various risk pillars and indicators set out in this Regulation, while offering at the same time enough certainty and predictability as regards the annual amounts that institutions would have to contribute pursuant to Directive 2014/59/EU and this Regulation.
- (26) In order to ensure that contributions are effectively paid, it is necessary to specify the conditions and means of payment. In particular, for contributions which are not paid in cash but in irrevocable payment commitments in accordance with Article 103 of Directive 2014/59/EU, it is necessary to specify the share of irrevocable payment commitments that each institution can use and the kind of collateral which is accepted to back these irrevocable payment commitments, so as to allow the resolution authority to ensure the actual payment when executing the irrevocable payment commitment where the resolution authority encounters difficulties in executing the irrevocable payment commitment. In order to ensure that the annual contributions are effectively paid, it is necessary to provide for the specific power of resolution authorities to impose administrative penalties and other administrative measures on institutions which breach the requirements set out in this Regulation for the calculation and adjustment of the contributions such non-compliance with the obligation to provide the information requested by the resolution authority. The resolution authority should also have the power to impose a daily penalty to an institution where the institution concerned only partially pays the annual contribution which is due, or where it does not pay it, or where that institution does not comply with the requirements set out in the notification made by the resolution authority. In addition, it is necessary to provide for specific obligations of information sharing between competent authorities and resolution authorities.
- (27) In order to ensure that the risk adjustment continues to reflect developments in the banking sector and therefore meets the requirements of Directive 2014/59/EU on an ongoing basis, based on the experience gained with its application the Commission will review the risk adjustment for the calculation of the annual contributions and, in particular, the appropriateness of the risk adjustment multiplier set out in this Regulation and the need for a possible increase of the upper limit the risk adjustment multiplier before 1 June 2016.

- (28) Since according to Article 130(1) of Directive 2014/59/EU, the obligation of Member States to raise annual contributions from institutions authorised on their territory applies from 1 January 2015, this Regulation should also apply from 1 January 2015,

HAS ADOPTED THIS REGULATION:

#### SECTION 1

### GENERAL PROVISIONS

#### Article 1

##### Subject matter

This Regulation lays down rules specifying:

- (a) the methodology for the calculation and for the adjustment to the risk profile of institutions, of the contributions to be paid by institutions to resolution financing arrangements;
- (b) the obligations of institutions as regards the information to provide for the purposes of the calculation of the contributions and as regards the payment of the contributions to resolution financing arrangements;
- (c) the measures to ensure the verification by the resolution authorities that the contributions have been paid correctly.

#### Article 2

##### Scope

1. This Regulation applies to the institutions referred to in Article 103(1) of Directive 2014/59/EU and defined in Article 2(1)(23). It also applies to a central body and its affiliated institutions on a consolidated basis, where the affiliated institutions are wholly or partially exempted from prudential requirements in national law in accordance with Article 10 of Regulation (EU) No 575/2013.
2. Any reference to a group should include a central body and all credit institutions permanently affiliated to the central body as referred to in Article 10 of Regulation (EU) No 575/2013 and their subsidiaries.

#### Article 3

##### Definitions

For the purposes of this Regulation, the definitions contained in Directive 2014/49/EU of the European Parliament and of the Council <sup>(1)</sup> and Directive 2014/59/EU shall apply. For the purpose of this Regulation, the following definitions shall also apply:

- (1) 'institutions' means credit institutions, as defined in point (2) of Article 2(1) of Directive 2014/59/EU, or investment firms as defined in point (2) of this Article, as well as a central body and all credit institutions permanently affiliated to the central body as referred to in Article 10 of Regulation (EU) No 575/2013 as a whole on a consolidated basis, where the conditions provided for in Article 2(1) are met;
- (2) 'investment firms' means investment firms as defined in point (3) of Article 2(1) of Directive 2014/59/EU, excluding investment firms which fall within the definition of Article 96(1)(a) or (b) of Regulation (EU) No 575/2013 or investment firms which carry out activity 8 of Annex I Section A of Directive 2004/39/EC of the European Parliament and of the Council <sup>(2)</sup> but which do not carry out activities 3 or 6 of Annex I Section A of that Directive;
- (3) 'annual target level' means the total amount of annual contributions determined for each contribution period by the resolution authority to reach the target level referred to in Article 102(1) of Directive 2014/59/EU;
- (4) 'financing arrangement' means an arrangement for the purpose of ensuring the effective application by the resolution authority of the resolution tools and powers as referred to in Article 100(1) of Directive 2014/59/EU;
- (5) 'annual contribution' means the amount referred to in Article 103 of Directive 2014/59/EU raised by the resolution authority for the national financing arrangement during the contribution period from each of the institutions referred to in Article 2 of this Regulation;

<sup>(1)</sup> Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (OJ L 173, 12.6.2014, p. 149).

<sup>(2)</sup> Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L 145, 30.4.2004, p. 1).

- (6) 'contribution period' means a calendar year;
- (7) 'resolution authority' means the authority referred to in point (18) of Article 2(1) of Directive 2014/59/EU, or any other relevant authority appointed by the Member States for the purposes of Article 100(2) and (6) of Directive 2014/59/EU;
- (8) 'competent authority' means a competent authority as defined in Article 4(1)(40) of Regulation (EU) No 575/2013;
- (9) 'deposit guarantee schemes' (DGS) means schemes referred to in point (a), (b), or (c) of Article 1(2) of Directive 2014/49/EU;
- (10) 'covered deposits' means the deposits referred to in Article 6(1) of Directive 2014/49/EU, excluding temporary high balances as defined in Article 6(2) of that Directive;
- (11) 'total liabilities' means total liabilities as defined in Section 3 of Council Directive 86/635/EEC <sup>(1)</sup>, or as defined in accordance with the International Financial Reporting Standards referred to in Regulation (EC) No 1606/2002 of the European Parliament and of the Council <sup>(2)</sup>;
- (12) 'total assets' means total assets as defined in Section 3 of Directive 86/635/EEC, or defined in accordance with the International Financial Reporting Standards referred to in Regulation (EC) No 1606/2002;
- (13) 'Total Risk Exposure' (TRE) means the total risk exposure amount as defined in Article 92(3) of Regulation (EU) No 575/2013;
- (14) 'Common Equity Tier 1 Capital Ratio' means the ratio as referred to in Article 92(2)(a) of Regulation (EU) No 575/2013;
- (15) 'MREL' means the minimum requirement for own funds and eligible liabilities as defined in Article 45(1) of Directive 2014/59/EU;
- (16) 'own funds' means own funds as defined in point (118) of Article 4(1) of Regulation (EU) No 575/2013;
- (17) 'eligible liabilities' means liabilities and capital instruments as defined in point (71) of Article 2(1) of Directive 2014/59/EU;
- (18) 'Leverage Ratio' means leverage ratio as defined in Article 429 of Regulation (EU) No 575/2013;
- (19) 'Liquidity Coverage Ratio' (LCR) means a liquidity coverage ratio as defined in Article 412 of Regulation (EU) No 575/2013 and further specified in Commission Delegated Regulation (EU) 2015/61 <sup>(3)</sup>;
- (20) 'Net Stable Funding Ratio' (NSFR) means a net stable funding ratio as reported in accordance with Article 415 of Regulation (EU) No 575/2013;
- (21) 'central counterparty' (CCP) means a legal person as defined in Article 2(1) of Regulation (EU) No 648/2012;
- (22) 'derivatives' means derivatives according to Annex II of Regulation (EU) No 575/2013;
- (23) 'central securities depository' (CSD) means a legal person as defined in point (1) of Article 2(1) and in Article 54 of Regulation (EU) No 909/2014 of the European Parliament and of the Council <sup>(4)</sup>;
- (24) 'settlement' means the completion of a securities transaction as defined in point (2) of Article 2(1) of Regulation (EU) No 909/2014;
- (25) 'clearing' means the process of establishing positions as defined in Article 2(3) of Regulation (EU) No 648/2012;
- (26) 'financial market infrastructure' means, for the purpose of this Regulation, a CCP as referred to in point 21 of this Article or a CSD as referred to in point 23 of this Article that are authorised as institutions in accordance with Article 8 of Directive 2013/36/EU;

<sup>(1)</sup> Council Directive 86/635/EEC of 8 December 1986 on the annual accounts and consolidated accounts of banks and other financial institutions (OJ L 372, 31.12.1986, p. 1).

<sup>(2)</sup> Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (OJ L 243, 11.9.2002, p. 1).

<sup>(3)</sup> Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) 575/2013 with regard to liquidity coverage requirement for Credit Institutions (see page 1 of this Official Journal).

<sup>(4)</sup> Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1).

- (27) 'promotional bank' means any undertaking or entity set up by a Member State, central or regional government, which grants promotional loans on a non-competitive, not for profit basis in order to promote that government's public policy objectives, provided that that government has an obligation to protect the economic basis of the undertaking or entity and maintain its viability throughout its lifetime, or that at least 90 % of its original funding or the promotional loan it grants is directly or indirectly guaranteed by the Member State's central or regional government;
- (28) 'promotional loan' means a loan granted by a promotional bank or through an intermediate bank on a non-competitive, non for profit basis, in order to promote the public policy objectives of central or regional governments in a Member State;
- (29) 'intermediary institution' means a credit institution which intermediates promotional loans provided that it does not give them as credit to a final customer.

## SECTION 2

### METHODOLOGY

#### *Article 4*

#### **Determination of the annual contributions**

1. The resolution authorities shall determine the annual contributions to be paid by each institution in proportion to its risk profile on the basis of information provided by the institution in accordance with Article 14 and by applying the methodology set out in this Section.
2. The resolution authority shall determine the annual contribution referred to in paragraph 1 on the basis of the annual target level of the resolution financing arrangement by taking into account the target level to be reached by 31 December 2024 in accordance with paragraph 1 of Article 102 of Directive 2014/59/EU and on the basis of the average amount of covered deposits in the previous year, calculated quarterly, of all the institutions authorized in its territory.

#### *Article 5*

#### **Risk adjustment of the basic annual contribution**

1. The contributions referred to in Article 103(2) of Directive 2014/59/EU shall be calculated by excluding the following liabilities:
  - (a) the intragroup liabilities arising from transactions entered into by an institution with an institution which is part of the same group, provided that all the following conditions are met:
    - (i) each institution is established in the Union;
    - (ii) each institution is included in the same consolidated supervision in accordance with Articles 6 to 17 of Regulation (EU) No 575/2013 on a full basis and is subject to an appropriate centralised risk evaluation, measurement and control procedures; and
    - (iii) there is no current or foreseen material practical or legal impediment to the prompt repayment of the liability when due;
  - (b) the liabilities created by an institution, which is member of an IPS as referred to in point (8) of Article 2(1) of Directive 2014/59/EU and which has been allowed by the competent authority to apply Article 113(7) of Regulation (EU) No 575/2013, through an agreement entered into with another institution which is member of the same IPS;
  - (c) in the case of a central counterparty established in a Member State having availed itself of the option in Article 14(5) of Regulation (EU) No 648/2012, liabilities related to clearing activities as defined in Article 2(3) of that Regulation, including those arising from any measures the central counterparty takes to meet margin requirements, to set up a default fund and to maintain sufficient pre-funded financial resources to cover potential losses as part of the default waterfall in accordance with that Regulation, as well as to invest its financial resources in accordance with Article 47 of that Regulation;

- (d) in the case of a central securities depository, the liabilities related to the activities of a central securities depository, including liabilities to participants or service providers of the central securities depository with a maturity of less than seven days arising from activities for which it has obtained an authorisation to provide banking-type ancillary services in accordance with Title IV of Regulation (EU) No 909/2014, but excluding other liabilities arising from such banking-type activities;
  - (e) in the case of investment firms, the liabilities that arise by virtue of holding client assets or client money including client assets or client money held on behalf of UCITS as defined in Article 1(2) of Directive 2009/65/EC of the European Parliament and of the Council <sup>(1)</sup> or of AIFs as defined in point (a) of Article 4(1) of Directive 2011/61/EU of the European Parliament and of the Council <sup>(2)</sup>, provided that such a client is protected under the applicable insolvency law;
  - (f) in case of institutions operating promotional loans, the liabilities of the intermediary institution towards the originating or another promotional bank or another intermediary institution and the liabilities of the original promotional bank towards its funding parties in so far as the amount of these liabilities is matched by the promotional loans of that institution.
2. The liabilities referred to in paragraph 1(a) and (b) shall be evenly deducted on a transaction by transaction basis from the amount of total liabilities of the institutions which are parties of the transactions or agreements referred to in paragraph 1(a) and (b).
  3. For the purpose of this Section, the yearly average amount, calculated on a quarterly basis, of liabilities referred to in paragraph 1 arising from derivative contracts shall be valued in accordance with Article 429(6) and (7) of Regulation (EU) No 575/2013.

However, the value assigned to liabilities arising from derivative contracts may not be less than 75 % of the value of the same liabilities resulting from the application of the accounting provisions applicable to the institution concerned for the purposes of financial reporting.

If, under national accounting standards applying to an institution, there is no accounting measure of exposure for certain derivative instruments because they are held off-balance sheet, the institution shall report to the resolution authority the sum of positive fair values of those derivatives as the replacement cost and add them to its on-balance sheet accounting values.

4. For the purpose of this Section, the total liabilities referred to in paragraph 1 shall exclude the accounting value of liabilities arising from derivative contracts and include the corresponding value determined in accordance with paragraph 3.
5. For verifying whether all conditions and requirements referred to in paragraphs 1 to 4 are met, the resolution authority shall be based on the relevant assessments conducted by competent authorities that are made available in accordance with Article 90 of Directive 2014/59/EU.

#### Article 6

##### **Risk pillars and indicators**

1. The resolution authority shall assess the risk profile of institutions on the basis of the following four risk pillars:
  - (a) Risk exposure;
  - (b) Stability and variety of sources of funding;
  - (c) Importance of an institution to the stability of the financial system or economy;
  - (d) Additional risk indicators to be determined by the resolution authority.

<sup>(1)</sup> Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

<sup>(2)</sup> Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1).

2. The 'Risk exposure' pillar shall consist of the following risk indicators:
  - (a) Own funds and eligible liabilities held by the institution in excess of MREL;
  - (b) Leverage Ratio;
  - (c) Common Equity Tier 1 Capital Ratio;
  - (d) Total Risk Exposure divided by Total Assets.
3. The 'Stability and variety of sources of funding' pillar shall consist of the following risk indicators:
  - (a) Net Stable Funding Ratio;
  - (b) LCR.
4. The 'Importance of an institution to the stability of the financial system or economy' pillar shall consist of the indicator 'Share of interbank loans and deposits in the European Union, capturing the importance of the institution to the economy of the Member State of establishment'.
5. The 'Additional risk indicators to be determined by the resolution authority' pillar shall consist of the following indicators:
  - (a) Trading activities, off-balance sheet exposures, derivatives, complexity and resolvability;
  - (b) Membership in an Institutional Protection Scheme;
  - (c) Extent of previous extraordinary public financial support.

When determining the various risk indicators in the 'Additional risk indicators to be determined by the resolution authority' pillar, the resolution authority shall take into account the importance of those indicators in the light of the probability that the institution concerned would enter resolution and of the consequent probability of making use of the resolution financing arrangement where the institution would be resolved.

6. When determining the indicators 'Trading activities, off-balance sheet exposures, derivatives, complexity and resolvability' referred to in paragraph 5(a), the resolution authority shall take into account the following elements:
  - (a) The increase in the risk profile of the institution due to:
    - (i) the importance of trading activities relative to the balance sheet size, the level of own funds, the riskiness of the exposures, and the overall business model;
    - (ii) the importance of the off-balance sheet exposures relative to the balance sheet size, the level of own funds, and the riskiness of the exposures;
    - (iii) the importance of the amount of derivatives relative to the balance sheet size, the level of own funds, the riskiness of the exposures, and the overall business model;
    - (iv) the extent to which in accordance with Chapter II of Title II of Directive 2014/59/EU the business model and organizational structure of an institution are deemed complex.
  - (b) The decrease of the risk profile of the institution due to:
    - (i) relative amount of derivatives which are cleared through a central counterparty (CCP);
    - (ii) the extent to which in accordance with Chapter II of Title II of Directive 2014/59/EU an institution can be resolved promptly and without legal impediments.

7. When determining the indicator referred to in paragraph 5(b), the resolution authority shall take into account the following elements:

- (a) whether the amount of funds which are available without delay for both recapitalisation and liquidity funding purposes in order to support the affected institution in case of problems is sufficiently large to allow for a credible and effective support of that institution;
- (b) the degree of legal or contractual certainty that the funds referred to in point (a) will be fully utilized before any extraordinary public support may be requested.

8. The risk indicator referred to in paragraph 5(c) shall take the maximum value of the range referred to in Step 3 of Annex I for:

- (a) any institution that is part of a group that has been put under restructuring after receiving any State or equivalent funds such as from a resolution financing arrangement, and is still within the restructuring or winding down period, except for the last 2 years of implementation of the restructuring plan;
- (b) any institution that is liquidated, until the end of the liquidation plan (to the extent that it is still liable to pay the contribution).

It shall take the minimum value of the range referred to in Step 3 of Annex I for all other institutions.

9. For the purposes of paragraphs 6, 7 and 8, the resolution authority shall be based on the assessments conducted by competent authorities where available.

#### *Article 7*

#### **Relative weight of each risk pillar and indicator**

1. When assessing the risk profile of each institution the resolution authority shall apply the following weights to the risk pillars:

- (a) Risk exposure: 50 %;
- (b) Stability and variety of sources of funding: 20 %;
- (c) Importance of an institution to the stability of the financial system or economy: 10 %;
- (d) Additional risk indicators to be determined by the resolution authority: 20 %.

2. The relative weight of the risk indicators that resolution authorities shall assess to determine the 'Risk exposure' pillar shall be the following:

- (a) Own funds and eligible liabilities held by the institution in excess of MREL: 25 %;
- (b) Leverage Ratio: 25 %;
- (c) Common Equity Tier 1 Capital Ratio: 25 %;
- (d) Total Risk Exposure divided by Total Assets: 25 %.

3. Each risk indicator in the 'Stability and variety of sources of funding' pillar shall have an equal weight.

4. The relative weight of each indicator that resolution authorities shall assess to determine the 'Additional risk indicators to be determined by the resolution authority' pillar shall be the following:

- (a) Trading activities and off-balance sheet exposures, derivatives, complexity and resolvability: 45 %;
- (b) Membership in an Institutional Protection Scheme: 45 %;
- (c) Extent of previous extraordinary public financial support: 10 %.

When applying the indicator referred to in point (b), the resolution authority shall take into account the relative weight of the indicator referred to in point (a).

*Article 8***Application of the risk indicators in specific cases**

1. Where a competent authority has granted a waiver to an institution in accordance with Articles 8 and 21 of Regulation (EU) No 575/2013, the indicator referred to in Article 6(3)(b) of this Regulation shall be applied by the resolution authority at the level of the liquidity sub-group. The score obtained by that indicator at the liquidity sub-group level shall be attributed to each institution which is part of the liquidity sub-group for the purposes of calculating that institution's risk indicator.
2. Where the competent authority has fully waived the application of capital requirements to an institution at individual level pursuant to Article 7(1) of Regulation (EU) No 575/2013 and the resolution authority has also fully waived the application at individual level to the same institution of the MREL in accordance with Article 45(12) of Directive 2014/59/EU, the indicator referred to in Article 6(2)(a) of this Regulation may be calculated at consolidated level. The score obtained by that indicator at consolidated level shall be attributed to each institution which is part of the group for the purposes of calculating that institution's risk indicator.
3. Where a competent authority has granted a waiver to an institution in other circumstances defined in Regulation (EU) No 575/2013, the relevant indicators may be calculated at consolidated level. The score obtained by those indicators at consolidated level shall be attributed to each institution which is part of the group for the purposes of calculating that institution's risk indicators.

*Article 9***Application of the risk adjustment to the basic annual contribution**

1. The resolution authority shall determine the additional risk adjusting multiplier for each institution by combining the risk indicators referred to in Article 6 in accordance with the formula and the procedures set out in Annex I.
2. Without prejudice to Article 10, the annual contribution of each institution shall be determined for each contribution period by the resolution authority by multiplying the basic annual contribution by the additional risk adjusting multiplier in accordance with the formula and the procedures set out in Annex I.
3. The risk adjusting multiplier shall range between 0,8 and 1,5.

*Article 10***Annual contributions of small institutions**

1. Institutions whose total liabilities, less own funds and covered deposits, are equal to or less than EUR 50 000 000, and whose total assets are less than EUR 1 000 000 000, shall pay a lump-sum of EUR 1 000 as annual contribution for each contribution period.
2. Institutions whose total liabilities, less own funds and covered deposits, are above EUR 50 000 000 but equal to or less than EUR 100 000 000, and whose total assets are less than EUR 1 000 000 000, shall pay a lump-sum of EUR 2 000 as annual contribution for each contribution period.
3. Institutions whose total liabilities, less own funds and covered deposits, are above EUR 100 000 000 but equal to or less than EUR 150 000 000, and whose total assets are less than EUR 1 000 000 000, shall pay a lump-sum of EUR 7 000 as annual contribution for each contribution period.
4. Institutions whose total liabilities, less own funds and covered deposits, are above EUR 150 000 000 but equal to or less than EUR 200 000 000, and whose total assets are less than EUR 1 000 000 000, shall pay a lump-sum of EUR 15 000 as annual contribution for each contribution period.
5. Institutions whose total liabilities, less own funds and covered deposits, are above EUR 200 000 000 but equal to or less than EUR 250 000 000, and whose total assets are less than EUR 1 000 000 000, shall pay a lump-sum of EUR 26 000 as annual contribution for each contribution period.
6. Institutions whose total liabilities, minus own funds and covered deposits, are above EUR 250 000 000 but equal to or less than EUR 300 000 000, and whose total assets are less than EUR 1 000 000 000, shall pay a lump-sum of EUR 50 000 as annual contribution for each contribution period.
7. Without prejudice to paragraph 8, if the institution provides sufficient evidence that the lump sum amount referred to in paragraphs 1 to 6 is higher than the contribution calculated in accordance with Article 5, the resolution authority shall apply the lower.

8. Notwithstanding paragraphs 1 to 6, a resolution authority may adopt a reasoned decision determining that an institution has a risk profile that is disproportionate to its small size and apply Articles 5, 6, 7, 8 and 9 to that institution. That decision shall be based on the following criteria:

- (a) the business model of an institution;
- (b) the information reported by that institution pursuant to Article 14;
- (c) the risk pillars and indicators referred to in Article 6;
- (d) the assessment of the competent authority as regards the risk profile of that institution.

9. Paragraphs 1 to 8 shall not apply to those institutions whose total liabilities, less own funds and covered deposits are equal to or less than EUR 300 000 000 after the liabilities referred to in Article 5(1) have been excluded.

10. The exclusions referred to Article 5(1) shall not be taken into account when applying paragraphs 1 to 9 to institutions whose total liabilities, less own funds and covered deposits are equal to or less than EUR 300 000 000 before the liabilities referred to in Article 5(1) have been excluded.

#### *Article 11*

##### **Annual contributions of institutions covered by Article 45(3) of Directive 2014/59/EU**

1. Without prejudice to Article 10, the annual contributions of institutions referred to in Article 45(3) of Directive 2014/59/EU shall be calculated in accordance with Article 9 using 50 % of their basic annual contribution.

2. In case the resolution financing arrangement is used with regard to an institution referred to in Article 45(3) of Directive 2014/59/EU in a Member State for any of the purposes referred to in Article 101 of Directive 2014/59/EU, the resolution authority may adopt a reasoned decision determining that Articles 5, 6, 7, 8 and 9 apply to those institutions which have a risk profile that is similar or above the risk profile of the institution which has used the resolution financing arrangement for any of the purposes referred to in Article 101 of Directive 2014/59/EU. The determination of the similarity of the risk profile by the resolution authority for the purpose of its reasoned decision shall take into account all of the following elements:

- (a) the business model of that institution;
- (b) the information reported by that institution pursuant to Article 14;
- (c) the risk pillars and indicators referred to in Article 6;
- (d) the assessment of the competent authority as regards the risk profile of that institution.

#### *Article 12*

##### **New supervised institutions or change of status**

1. Where an institution is a newly supervised institution for only part of a contribution period, the partial contribution shall be determined by applying the methodology set out in Section 3 to the amount of its annual contribution calculated during the subsequent contribution period by reference to the number of full months of the contribution period for which the institution is supervised.

2. A change of status of an institution, including a small institution, during the contribution period shall not have an effect on the annual contribution to be paid in that particular year.

#### *Article 13*

##### **Process for raising annual contributions**

1. The resolution authority shall notify each institution referred to in Article 2 of its decision determining the annual contribution due by each institution at the latest by 1 May each year.

2. The resolution authority shall notify the decision in any of the following ways:

- (a) electronically or by other comparable means of communication allowing for an acknowledgment of receipt;
- (b) by registered mail with a form of acknowledgment of receipt.

3. The decision shall specify the condition and the means by which the annual contribution shall be paid and the share of irrevocable payment commitments referred to in Article 103 of Directive 2014/59/EU that each institution can use. The resolution authority shall accept collateral only of the kind and under conditions that allow for swift realisability including in the event of a resolution decision over the weekend. The collateral should be conservatively valued to reflect significantly deteriorated market conditions.

4. Without prejudice to any other remedy available to the resolution authority, in the event of partial payment, non-payment or non-compliance with the requirement set out in the decision, the institution concerned shall incur a daily penalty on the outstanding amount of the instalment.

The daily penalty interest shall accrue on a daily basis on the amount due at an interest rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union*, in force on the first calendar day of the month in which the payment deadline falls increased by 8 percentage points from the date on which the instalment was due.

5. Where an institution is a newly supervised institution for only part of a contribution period, its partial annual contribution shall be collected together with the annual contribution due for the subsequent contribution period.

### SECTION 3

#### ADMINISTRATIVE ASPECTS AND PENALTIES

##### Article 14

#### Reporting obligations of institutions

1. Institutions shall provide the resolution authority with the latest approved annual financial statements available before the 31st of December of the year preceding the contribution period, together with the opinion submitted by the statutory auditor or audit firm, in accordance with Article 32 of Directive 2013/34/EU of the European Parliament and of the Council <sup>(1)</sup>.

2. Institutions shall provide the resolution authority at least with the information referred to in Annex II at individual entity level.

3. The information in Annex II, included in the supervisory reporting requirements laid down by Commission Implementing Regulation (EU) No 680/2014 <sup>(2)</sup> or, where applicable, by any other supervisory reporting requirement applicable to the institution under national law, shall be provided to the resolution authority as reported by the institution in the latest relevant supervisory report submitted to the competent authority pertaining to the reference year of the annual financial statement referred to in paragraph 1.

4. The information referred to in paragraphs 1, 2 and 3 shall be provided at the latest by 31 January each year in respect of the year ended on the 31st of December of the preceding year, or of the applicable relevant financial year. If the 31st of January is not a business day, the information shall be provided on the following business day.

5. Where the information or data submitted to the resolution authorities is subject to updates or corrections, such updates or correction shall be submitted to the resolution authorities without undue delay.

6. The institutions shall submit the information referred to in Annex II in the data formats and representations specified by the resolution authority.

7. The information provided in accordance with paragraphs 2 and 3 shall be subject to the confidentiality and professional secrecy requirements set out in Article 84 of Directive 2014/59/EU.

<sup>(1)</sup> Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

<sup>(2)</sup> Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council (OJ L 191, 28.6.2014, p. 1).

*Article 15***Obligation of resolution authorities to exchange information**

1. For the purpose of calculating the denominator provided for in the risk pillar referred to in Article 7(1)(c), by 15 February each year, resolution authorities shall provide the European Banking Authority (EBA) with the information received from all institutions established in their territory related to interbank liabilities and deposits referred to in Annex I at aggregate level.
2. by 1 March each year, the EBA shall communicate to each resolution authority the value of the denominator of the risk pillar referred to in Article 7(1)(c).

*Article 16***Reporting obligations of deposit guarantee schemes**

1. By 31 January each year, deposit guarantee schemes shall provide resolution authorities with the calculation of the average amount of covered deposits in the previous year, calculated quarterly, of all their member credit institutions.
2. This information shall be provided both at individual and aggregated level of the credit institutions concerned in order to enable the resolution authorities to determine the annual target level of the resolution financing arrangement in accordance with Article 4(2) and to determine the basic annual contribution of each institution in accordance with Article 5.

*Article 17***Enforcement**

1. Where institutions do not submit all the information referred in Article 14 within the timeframe foreseen in that Article, the resolution authority shall use estimates or its own assumptions in order to calculate the annual contribution of the institution concerned.
2. Where the information is not provided by 31 January each year, the resolution authority may assign the institution concerned to the highest risk adjusting multiplier as referred to in Article 9.
3. Where the information submitted by the institutions to the resolution authority is subject to restatements or revisions, the resolution authority shall adjust the annual contribution in accordance with the updated information upon the calculation of the annual contribution of that institution for the following contribution period.
4. Any difference between the annual contribution calculated and paid on the basis of the information subject to restatements or revision and the annual contribution which should have been paid following the adjustment of the annual contribution shall be settled in the amount of the annual contribution due for the following contribution period. That adjustment shall be made by decreasing or increasing the contributions to the following contribution period.

*Article 18***Administrative penalties and other administrative measures**

The resolution authorities may impose administrative penalties and other administrative measures referred to in Article 110 of Directive 2014/59/EU to the persons or entities responsible for breaches of this Regulation.

## SECTION 4

**COOPERATION ARRANGEMENTS***Article 19***Cooperation arrangements**

1. In order to ensure that the contributions are in fact paid the competent authorities shall assist the resolution authorities in carrying out any task under this Regulation if the latter so request.
2. Upon request, the competent authorities shall provide the resolution authorities with the contact details of the institutions to which the decision referred to in paragraph 1 of Article 13 shall be notified at the latest by 1 April each year or on the following business day if the 1st of April is not a business day. Such contact details refer to name of the legal person, name of the natural person representing the legal person, address, e-mail address, telephone number, fax number or any other information that allows identifying an institution.

3. The competent authorities shall provide the resolution authorities any information enabling the resolution authorities to calculate the annual contributions, in particular any information related to the additional risk adjustment and any relevant waivers that competent authorities have granted to institutions pursuant to Directive 2013/36/EU and Regulation (EU) No 575/2013.

#### SECTION 5

#### FINAL PROVISIONS

##### *Article 20*

#### **Transitional provisions**

1. Where the information required by a specific indicator as referred to in Annex II is not included in the applicable supervisory reporting requirement referred to in Article 14 for the reference year, that risk indicator shall not apply until that supervisory reporting requirement becomes applicable. The weight of other available risk indicators shall be rescaled proportionally to their weight as provided for in Article 7 so that the sum of their weights is 1. In 2015 where any of the information required in Article 16 is not available to the deposit guarantee scheme by 31 January for the purposes of the calculation the annual target level referred to in Article 4(2) or of the basic annual contribution of each institution referred to in Article 5, following a notification by the deposit guarantee scheme, the relevant credit institutions shall provide the resolution authorities with that information by that date. By way of derogation from Article 13(1), with regards to the contributions to be paid in 2015, the resolution authorities shall notify each institution of its decision determining the annual contribution to be paid by them at the latest by 30 November 2015.

2. By way of derogation from Article 13(4), and with regards to the contributions to be paid in 2015, the amount due under the decision referred to in Article 13(3) shall be paid by 31 December 2015.

3. By way of derogation from Article 14(4), and with regards to the information to be provided to the resolution authority in 2015, the information referred to in that paragraph shall be provided at the latest by the 1 September 2015.

4. By way of derogation from Article 16(1), the deposit guarantee schemes shall provide the resolution authority by 1 September 2015 with the information about the amount of covered deposits as of 31 July 2015.

5. Until the end of the initial period referred to in Article 69(1) of Regulation EU (No) 806/2014/EU, Member States may allow institutions whose total liabilities, less own funds and covered deposits, are above EUR 300 000 000, and whose total assets are equal or less than EUR 3 000 000 000, to pay a lump-sum of EUR 50 000 for the first EUR 300 000 000 of total liabilities, less own funds and covered deposits. For the total liabilities less own funds and covered deposits above EUR 300 000 000, those institutions shall contribute in accordance with Articles 4 to 9 of this Regulation.

##### *Article 21*

#### **Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2015.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 21 October 2014.

*For the Commission*  
*The President*  
José Manuel BARROSO

## ANNEX I

## PROCEDURE FOR THE CALCULATION OF THE ANNUAL CONTRIBUTIONS OF INSTITUTIONS

## STEP 1

## Calculation of the Raw Indicators

The resolution authority shall calculate the following indicators by applying the following measures:

Pillar	Indicator	Measures
Risk exposure	Own funds and eligible liabilities held by the institution in excess of MREL	$\left( \frac{\text{Own funds and eligible liabilities}}{\text{Total liabilities including own funds}} \right) - \text{MREL}$ <p>Where, for the purpose of this indicator:</p> <p>Own funds shall mean the sum of Tier 1 and Tier 2 Capital in accordance with the definition in point (118) of Article 4(1) of Regulation (EU) No 575/2013.</p> <p>Eligible liabilities are the sum of the liabilities referred to in point (71) of Article 2(1) of Directive 2014/59/EU.</p> <p>Total liabilities as defined in Article 3(11) of this Regulation. Derivative liabilities shall be included in the total liabilities on the basis that full recognition is given to counterparty netting rights.</p> <p>MREL shall mean the minimum requirement for own funds and eligible liabilities as defined in Article 45(1) of Directive 2014/59/EU.</p>
Risk exposure	Leverage Ratio	Leverage Ratio as defined in Article 429 of Regulation (EU) No 575/2013 and reported in accordance with Annex X of Commission Implementing Regulation (EU) No 680/2014.
Risk exposure	Common Equity Tier 1 Capital Ratio	Common Equity Tier 1 Capital Ratio as defined in Article 92 of Regulation (EU) No 575/2013 and reported in accordance with Annex I of Commission Implementing Regulation (EU) No 680/2014.
Risk exposure	TRE/Total Assets	$\left( \frac{\text{TRE}}{\text{Total assets}} \right)$ <p>where:</p> <p>TRE means the total risk exposure amount as defined in Article 92(3) of Regulation (EU) No 575/2013.</p> <p>Total assets are defined in Article 3(12) of this Regulation.</p>
Stability and Variety of Funding	Net Stable Funding Ratio	Net Stable Funding Ratio as reported in accordance with Article 415 of Regulation (EU) No 575/2013.
Stability and Variety of Funding	Liquidity Coverage Ratio	Liquidity Coverage Ratio as reported in accordance with Article 415 of Regulation (EU) No 575/2013 and with the Commission Delegated Regulation (EU) 2015/61.
Importance of an institution to the stability of the financial system or economy	Share of interbank loans and deposits in the EU	$\left( \frac{\text{Interbank loans} + \text{Interbank deposits}}{\text{Total interbank loans and deposits in the EU}} \right)$ <p>where:</p> <p>Interbank loans are defined as the sum of the carrying amounts of loans and advances to credit institutions and other financial corporations as determined for the purpose of template number 4.1, 4.2, 4.3 and 4.4 of Annex III of Commission Implementing Regulation (EU) No 680/2014.</p>

Pillar	Indicator	Measures
		<p>Interbank deposits are defined as the carrying amount of the deposits of credit institutions and other financial corporations as determined for the purpose of template number 8.1 of Annex III of Commission Implementing Regulation (EU) No 680/2014.</p> <p>Total interbank loans and deposits in the EU are the sum of the aggregate interbank loans and deposits held by institutions in each Member State as calculated in accordance with Article 15.</p>

## STEP 2

**Discretization of the Indicators**

1. In the notation that follows,  $n$  indexes institutions,  $i$  indexes indicators within pillars and  $j$  indexes pillars.
2. For each raw indicator resulting from Step 1,  $x_{ij}$ , except for the indicator 'extent of previous extraordinary public financial support', the resolution authority shall calculate the number of bins,  $k_{ij}$ , as the nearest integer to:

$$1 + \log_2(N) + \log_2 \left( 1 + \frac{|g_{ij}|}{\sigma_g} \right),$$

where:

$N$  is the number of institutions, contributing to the resolution financing arrangement, for which the indicator is calculated;

$$g_{ij} = \frac{\frac{1}{N} \sum_{n=1}^N (x_{ij,n} - \bar{x})^3}{\left[ \frac{1}{N-1} \sum_{n=1}^N (x_{ij,n} - \bar{x})^2 \right]^{3/2}},$$

$$\bar{x} = \frac{\sum_{n=1}^N x_{ij,n}}{N},$$

$$\sigma_g = \sqrt{\frac{6(N-2)}{(N+1)(N+3)}}.$$

3. For each indicator, except for the indicator 'extent of previous extraordinary public financial support', the resolution authority shall assign the same number of institutions to each bin, starting by assigning institutions with the lowest values of the raw indicator to the first bin. In case the number of institutions cannot be exactly divided by the number of bins, each of the first  $r$  bins, starting from the bin containing the institutions with the lowest values of the raw indicator, where  $r$  is the remainder of the division of the number of institutions,  $N$ , by the number of bins,  $k_{ij}$ , is assigned one additional institution.
4. For each indicator, except for the indicator 'extent of previous extraordinary public financial support', the resolution authority shall assign to all the institutions contained in a given bin the value of the order of the bin, counting from the left to the right, so that the value of the discretized indicator is defined as  $I_{ij,n} = 1, \dots, k_{ij}$ .
5. This Step shall apply to the indicators listed under points (a) and (b) of Article 6(5) only if the resolution authority determines them as continuous variables.

## STEP 3

**Rescaling of the Indicators**

The resolution authority shall rescale each indicator resulting from Step 2,  $I_{ij}$ , over the range 1-1 000 by applying the following formula:

$$RI_{ij,n} = (1\ 000 - 1) * \frac{I_{ij,n} - \min_n I_{ij,n}}{\max_n I_{ij,n} - \min_n I_{ij,n}} + 1,$$

where the arguments of the minimum and the maximum functions shall be the values of all institutions, contributing to the resolution financing arrangement, for which the indicator is calculated.

## STEP 4

**Inclusion of the Assigned Sign**

1. The resolution authority shall apply the following signs to the indicators:

Pillar	Indicator	Sign
Risk exposure	Own funds and eligible liabilities held by the institution in excess of the MREL	–
Risk exposure	Leverage Ratio	–
Risk exposure	Common Equity Tier 1 Capital Ratio	–
Risk exposure	TRE/Total Assets	+
Stability and Variety of Funding	Net Stable Funding Ratio	–
Stability and Variety of Funding	Liquidity Coverage Ratio	–
Importance of an institution to the stability of the financial system or economy	Share of interbank loans and deposits in the EU	+
Additional risk indicators to be determined by the resolution authority	IPS Membership	–
Additional risk indicators to be determined by the resolution authority	Extent of previous extraordinary public financial support	+

For indicators with positive sign, higher values correspond to higher riskiness of an institution. For indicators with negative sign, higher values correspond to lower riskiness of an institution.

The resolution authority shall determine the indicators trading activities, off-balance sheet exposures, derivatives, complexity and resolvability, and specify their sign accordingly.

2. The resolution authority shall apply the following transformation to each rescaled indicator resulting from Step 3,  $RI_{ij,n}$ , in order to include its sign:

$$TRI_{ij,n} = \begin{cases} RI_{ij,n} & \text{if sign} = \text{'-'} \\ 1\ 001 - RI_{ij,n} & \text{if sign} = \text{'+'} \end{cases}$$

## STEP 5

**Calculation of the Composite Indicator**

1. The resolution authority shall aggregate the indicators  $i$  within each pillar  $j$  through a weighted arithmetic average by applying the following formula:

$$PI_{j,n} = \sum_{ij=1}^{N_j} w_{ij} * TRI_{ij,n} = w_{1j} * TRI_{1j,n} + \dots + w_{N_j} * TRI_{N_j,n},$$

where:

$w_{ij}$  is the weight of indicator  $i$  in pillar  $j$  as defined by Article 7;

$N_j$  is the number of indicators within pillar  $j$ .

2. In order to compute the composite indicator, the resolution authority shall aggregate the pillars  $j$  through a weighted geometric average by applying the following formula:

$$CI_n = \prod_j PI_{j,n}^{W_j} = PI_{1,n}^{W_1} * \dots * PI_{j,n}^{W_j},$$

where:

$W_j$  is the weight of pillar  $j$  as defined by Article 7;

$J$  is the number of pillars.

3. The resolution authority shall apply the following transformation in order for the final composite indicator to be defined as taking higher values for institutions with higher risk profiles:

$$FCI_n = 1\,000 - CI_n.$$

STEP 6

### Calculation of the Annual Contributions

1. The resolution authority shall rescale the final composite indicator resulting from Step 5,  $FCI_n$ , over the range defined in Article 9 by applying the following formula:

$$\tilde{R}_n = (1,5 - 0,8) * \frac{FCI_n - \min_n FCI_n}{\max_n FCI_n - \min_n FCI_n} + 0,8,$$

where the arguments of the minimum and the maximum functions shall be the values of all institutions, contributing to the resolution financing arrangement, for which the final composite indicator is calculated.

2. The resolution authority shall compute the annual contribution of each institution  $n$ , except in respect of institutions which are subject to Article 10 and except for the lump-sum portion of the contributions of institutions to which Member States apply Article 20(5), as:

$$c_n = Target * \frac{\frac{B_n}{\sum_{p=1}^N B_p} \cdot \tilde{R}_n}{\sum_{p=1}^N \left( \frac{B_p}{\sum_{q=1}^N B_q} \cdot \tilde{R}_p \right)},$$

where:

$p, q$  index institutions;

*Target* is the annual target level as determined by the resolution authority in accordance with Article 4(2), minus the sum of the contributions calculated in accordance with Article 10 and minus the sum of any lump sum that may be paid under Article 20(5);

$B_n$  is the amount of liabilities (excluding own funds) less covered deposits of institution  $n$ , as adjusted in accordance with Article 5 and without prejudice to the application of Article 20(5).

## ANNEX II

**DATA TO BE SUBMITTED TO THE RESOLUTION AUTHORITIES**

- Total Assets as defined in Article 3(12)
  - Total Liabilities as defined in Article 3(11)
  - Liabilities covered by points (a), (b), (c), (d), (e) and (f) of Article 5(1)
  - Liabilities arising from derivatives contracts
  - Liabilities arising from derivatives contracts valued in accordance with Article 5(3)
  - Covered deposits
  - Total Risk Exposure
  - Own funds
  - Common Equity Tier 1 Capital Ratio
  - Eligible liabilities
  - Leverage Ratio
  - Liquidity Coverage Ratio
  - Net Stable Funding Ratio
  - Interbank loans
  - Interbank deposits
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