

# **OPERATIONAL GUIDANCE ON BAIL-IN PLAYBOOKS**



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SINGLE RESOLUTION BOARD

# **OPERATIONAL GUIDANCE ON BAIL-IN PLAYBOOKS**



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# DISCLAIMER

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This publication compiles the main elements that banks are expected to consider for developing their bail-in playbooks in order to enable the timely and effective execution of the write-down and conversion of capital instruments and eligible liabilities pursuant to Article 21 of Regulation (EU) No 806/2014<sup>1</sup> (SRMR) (“write-down and conversion powers”) and the execution of the bail-in tool in resolution<sup>2</sup>. In a crisis, depending on the specific situation and in line with the applicable legal framework, the Single Resolution Board (SRB) reserves the right to deviate from actions and expectations of this publication.

This publication is not intended to create any legally binding effect and does not substitute the legal requirements laid down in the relevant applicable EU and national laws. It shall not be relied upon for any legal purposes, does not establish any binding interpretation of EU or national laws and does not serve as, or substitute for, legal advice.

The SRB Operational guidance on bail-in playbooks is subject to further revisions, including due to changes in the applicable EU legislation. The SRB reserves the right to amend this publication without notice whenever it deems appropriate, and it shall not be considered as predetermining the position that the SRB may take in specific cases, where the circumstances of each case will also be considered.

The document has been developed by the SRB, in close collaboration with the National Resolution Authorities (NRAs).

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<sup>1</sup> Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014.

<sup>2</sup> For the purpose of simplification, when this guidance refers to bail-in, it refers to both write-down and conversion powers and bail-in in the case of resolution.

# ABBREVIATIONS

AT1	Additional Tier 1
BRP	Business Reorganisation Plan
BRRD	Bank Recovery and Resolution Directive Directive (EU) 2014/59/EU, as amended, among others, by Directive (EU) 2019/879
CCP	Central Counterparty
CET1	Common Equity Tier 1
CRD	Capital Requirements Directive Directive 2013/36/EU, as amended, among others, by Directive (EU) 2019/878
CRR	Capital Requirements Regulation Regulation (EU) No 575/2013, as amended, among others, by Regulation (EU) 2019/876
CSD	Central Securities Depository
CUSIP	Committee on Uniform Security Identification Procedures
DTAs	Deferred Tax Assets
EBA	European Banking Authority
EfB	Expectations for Banks
EU	European Union
FX	Foreign Exchange
GAAP	Generally Accepted Accounting Principles
G-SII	Global Systemically Important Institution
IAS	International Accounting Standards
ICSD	International Central Securities Depository
IFRS	International Financial Reporting Standards
IRT	Internal Resolution Team
ISIN	International Securities Identification Number
ITS	Implementing Technical Standards
LDR	Liability Data Report
MAR	Market Abuse Regulation Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC, as amended.
MIS	Management Information Systems
MPE	Multiple Points of Entry
MREL	Minimum Requirement for Own Funds and Eligible Liabilities
MTF	Multilateral Trading System
NCWO	No Creditor Worse Off
NNA	National Numbering Agency
NRA	National Resolution Authority

P&L	Profit and Loss Statement
RTS	Regulatory Technical Standards
SPV	Special Purpose Vehicle
SRB	Single Resolution Board
SRMR	Single Resolution Mechanism Regulation Regulation (EU) No 806/2014, as amended, among others, by Regulation (EU) 2019/877
T2	Tier 2
TCs	Tax Credits
TLCF	Tax loss carry-forward



# 1. INTRODUCTION

## 1.1. Background and rationale

1. On 1 April 2020 the SRB published the **'Expectations for Banks' (EfB)** where it outlines the role of banks<sup>3</sup> in working together with resolution authorities to achieve resolvability. Banks should work on making themselves resolvable. The SRB supports and guides banks in this process through (i) the EfB, (ii) additional operational guidance documents, and (iii) the cooperation between Internal Resolution Teams (IRTs) and individual banks.
2. **Bail-in is a key resolution tool** that can be used on a stand-alone basis or in combination with other tools. Its effective implementation requires complete, accurate and up-to-date bail-in-specific information to be timely received. The effective implementation of the bail-in is linked to other expectations referred to in the EfB, namely for banks to have a sufficient level of loss absorption and recapitalisation capacity and to allow the allocation of losses to as wide a range of liabilities as possible. In particular, banks are expected to identify and quantify, in a timely and reliable manner, the amount of liabilities which are likely, under the preferred resolution strategy, to contribute to loss absorption and/or recapitalisation.
3. To facilitate this, banks need to develop their own bail-in playbooks over time – one per resolution group.<sup>4</sup> **The bail-in playbook is an operational document owned by the bank.** It supports the execution of the write-down and conversion powers pursuant to Article 21 SRMR and the execution of the bail-in tool in resolution. The bail-in playbook is expected to address all internal and external actions that must be undertaken by or on behalf of the banks to effectively apply the bail-in tool.<sup>5</sup>
4. Banks and resolution authorities work together hand in hand to operationalise all the required steps for bail-in execution. Against this background, the present document outlines the **SRB expectations on the content of the playbook and its assessment** both on internal and external execution of the bail-in tool.
5. **This document is not a policy document.** It operationalises the EfB with respect to bail-in. The document has been developed by the SRB, in close collaboration with the NRAs.
6. The operationalisation of the bail-in tool also **depends on the applicable national legal framework.** This guidance complements, but does not pre-empt or supersede, additional national elements provided by the NRAs. If guidance on specific subject matters has already been provided to banks in a given jurisdiction, the banks are expected to take this into account when developing the playbooks.

<sup>3</sup> For the purposes of this document the term "bank" shall be understood as encompassing the entities falling within the scope of the SRMR and not only credit institutions.

<sup>4</sup> If the resolution strategy is a multiple points of entry (MPE) approach, the banks will be expected to have a separate playbook for each of the resolution groups.

<sup>5</sup> For the purpose of simplification, when this guidance refers to bail-in, it refers to both write-down and conversion powers and bail-in in the case of resolution. Similarly, when this guidance refers to bail-inable instruments, it includes the instruments subject to write-down and conversion.

7. This document considers the **changes of the Banking Reform Package**<sup>6</sup> to the extent relevant – see Annex 1.
8. This document includes a **glossary** – see Annex 2.

## 1.2. General expectations for playbooks

9. The playbook is expected to cover at a minimum:
  - ▶ An identification and description of relevant **governance arrangements** for the bail-in execution, including an indication of responsibilities, reporting lines and roles of committees, the communication set-up and the processes for setting up a business reorganisation plan (BRP);
  - ▶ Processes and timelines for the **identification of the perimeter of bail-inable instruments**<sup>7</sup> and the **generation of data points** used as input for the resolution scheme, the national implementing act of the NRA and the bail-in execution itself;
  - ▶ A detailed description of the **procedural steps for the execution of the bail-in inside and outside the bank for each type of instrument** covered by the playbook;
  - ▶ A description of **the Management Information Systems (MIS)** that support the different processes, in line with Principle 5.3 of the Efb.
10. The playbook is also expected to have an introduction with a description of the playbook validation process and a clear indication of the scope of instruments covered.
11. The **description of processes** is an integral part of the playbook. Banks are expected to cover the following elements:
  - a) An identification and a description of the inputs to and outputs of the different processes: data sheets, specific documents and forms, etc.;
  - b) A chronology and a description of events and tasks (an illustration of the chronology in a separate table would support clarity);
  - c) A description of operational procedures (*e.g.* in a flowchart).

A separate general overview table/flowchart of the processes and the timeline could be presented as a summary, *e.g.* at the beginning of the playbook.
12. Banks are encouraged to **test the elements of the bail-in playbook**, in particular with respect to data provision. The timing of such exercises should be agreed between the IRT and the bank.

<sup>6</sup> The legislative package introducing amendments to the Bank Recovery and Resolution Directive (BRRD), the Single Resolution Mechanism Regulation (SRMR), the Capital Requirements Regulation (CRR) and the Capital Requirements Directive (CRD).

<sup>7</sup> To maintain a user-friendly approach in this guidance, the term “instruments” is used hereinafter to describe the entirety of CET1, AT1 and T2 items and any other bail-inable liability —unless a specific reference is made to each of these elements.

13. The playbook is expected to be in line with the content of this guidance, to be well-structured and easy to understand. It is expected to be **practical for the banks and resolution authorities** in order to use it in a potential resolution case. The guidance does not prevent IRTs from setting more specific requirements to the format or structure if necessary.
14. The playbook is expected to be **validated by the senior management** of the bank.
15. **The playbook is a living document** and is expected to be updated at least annually taking into account the feedback from the IRT, other guidance from the resolution authorities, any material changes within the bank, requirements of the external stakeholders for external execution (*e.g.* Central Securities Depositories (CSDs), trading venues, etc.), and legal changes (including changes to the national insolvency laws).
16. The playbook is expected to have a date and a version number. **Material changes compared to the previous version are expected to be clearly indicated**, for example as a summary at the beginning of the document. The involved units, departments and committees in the bank should be informed.
17. Banks are expected to list the **remaining issues related to the different sections** and discuss openly with IRTs the way forward to address them (*e.g.* concerning the level of data automation, the different steps for the execution of bail-in at a CSD, or legal constraints).

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## 2. SCOPE OF INSTRUMENTS COVERED

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18. The scope of instruments to be covered in the playbook may vary from bank to bank, depending on the bank's liability structure and the level of progress in the operationalisation of the bail-in.<sup>8</sup> The scope of instruments covered in the next iterations of the playbooks is expected to increase gradually, and could be phased in along the following dimensions:

- a) The creditor hierarchy classes covered;
- b) The type of instrument covered (*e.g.* senior unsecured bearer bond, loan-type instrument, commercial paper);
- c) The market(s) where the instrument is listed for trading, and the CSD where the instrument has been issued.

The banks are encouraged to include a summary of the instruments covered in the playbook. This summary should indicate the volumes along the dimensions noted above, in order to demonstrate which bail-inable instruments are covered by the present playbook version and the relevance of the different instruments for the bail-in execution (*e.g.* their share of total bail-inable instruments or total liabilities and own funds). For all figures shown, a reference date must be included.

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<sup>8</sup> At some occasions, the scope of instruments may be provided by IRTs/NRAs in agreement with the SRB for all banks in a country. The fully-fledged playbook version is expected to cover all instruments that could be subject to bail-in.

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## 3. CONTENT OF THE PLAYBOOK

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### 3.1. Governance, communication, disclosure obligations and business reorganisation plan

#### 3.1.1. Governance framework

19. Under the Efb<sup>9</sup>, banks are expected to have in place robust governance processes that facilitate the preparation as well as the implementation of the resolution strategy. In line with the Efb, the playbook should contain robust governance arrangements for the implementation of bail-in to ensure (i) a timely and accurate provision of relevant information on a regular and *ad hoc* basis, (ii) effective oversight during both resolution planning and a possible crisis scenario and (iii) efficient decision-making at the time of resolution.
20. The governance framework should comply with the relevant instructions of the resolution authorities, *e.g.* arrangements for drawing up and implementing the BRP in line with Article 52 BRRD (see Chapter 3.1.4 below).
21. The governance framework should include the preparatory phase, the resolution weekend and the implementation phase (the bail-in execution), as well as the closing phase. The overall governance framework should allow for a smooth transition from the early intervention and recovery phases into the resolution phase.
22. Governance should not be understood as an isolated element of the playbook, but as a horizontal element to be addressed throughout the playbook, closely linked to the internal processes for data provision, the identification of the perimeter of bail-inable instruments<sup>10</sup> as well as the internal and external bail-in execution. To this end, the playbook is expected to identify and describe the following:
  - ▶ The composition of teams, units, departments and committees (pre-existing or specifically designed for bail-in purposes) within the bank that are involved in the different stages of the bail-in implementation;
  - ▶ At a minimum, a point of contact and an alternate point of contact<sup>11</sup> (with a reference to a job title and contact details) for each of the units, departments, entities (if relevant) and committees responsible for the practical implementation of the bail-in tool;

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<sup>9</sup> Principles 1.1, 1.2, 1.3 and 1.4 of the Efb.

<sup>10</sup> According to Art. 2(1)(71) BRRD and Art. 3(1)(49) SRMR.

<sup>11</sup> Relevant for business continuity.

- ▶ Specificities related to the legal structure of the group, if relevant for the bail-in (e.g. existence of a holding company that is different from the point of entry, cooperative network, etc.);
  - ▶ The governance set-up, e.g. processes, decision-making timelines, as well as reporting lines, escalation and formal approval mechanisms, with a clear allocation of responsibilities. The roles and tasks of the different actors and committees and the interactions between them are expected to be clearly described.<sup>12</sup> The interplay with relevant external stakeholders is also expected to be covered;
  - ▶ Procedures for (i) identifying the staff to be involved in the operationalisation of the bail-in process; (ii) granting staff and relevant third parties (e.g. valuers) access to premises, IT systems and data; and (iii) ensuring confidentiality from staff and third parties involved in the resolution process (e.g. signing confidentiality agreements or secrecy protocols), in particular in the lead-up to the resolution weekend;
  - ▶ Banks are encouraged to use flowcharts and diagrams to visualise the process workflows and the interaction between the different actors, departments and committees.
23. Time is a factor of the utmost importance for bail-in execution. Once the resolution authorities request information, it should be reported as soon as possible. The playbooks are expected to:
- ▶ Estimate and provide a timeline for the completion of all necessary tasks;
  - ▶ Map staff to processes to assess if additional resources are needed to prevent bottlenecks or operational constraints, or if synergies could be created by merging procedures.
24. For the external execution of bail-in, external stakeholders (domestic, other EU and third country, as appropriate) need to be clearly identified, such as:
- ▶ Other authorities (e.g. market authorities);
  - ▶ Regulated markets (exchanges) and other trading venues (if appropriate);
  - ▶ Operational agents such as paying agents, listing agents, issuing agents;<sup>13</sup>
  - ▶ CSDs and International CSDs (ICSDs), common depositories for classical global notes or common service providers and common safekeepers for new global notes (as appropriate);
  - ▶ National Numbering Agencies (NNAs) (if different from the local CSDs);
  - ▶ Central Counterparties (CCPs), when the securities are centrally cleared.
25. Banks are expected to identify the preferred operational agent(s) to use in case of a bail-in. When the bank is using:
- ▶ **An external agent:** The bank is expected to explain whether it has already established the necessary relationship (including contractual documentation) and whether it uses the agent under business-as-usual conditions (for corporate

<sup>12</sup> In this regard, please note that a special manager may be appointed.

<sup>13</sup> Any relevant agent necessary for executing the bail-in. Different roles are performed to support the various steps of the bail-in execution process (paying agent for standard corporate actions, issuing agent for the issuance of new equity, exchange agent for a conversion, listing agent for listing on an exchange). These roles may be performed by one or several service providers including the bank itself.

actions foreseen in the prospectus). The bank is also expected to explain whether its contractual documentation includes specific provisions ensuring that the agent would also support the exceptional corporate events stemming from the bail-in<sup>14</sup> and to which extent the contract is resolution-resilient.

- ▶ **An internal agent, i.e. a business unit or another entity of the group:** The bank is expected to describe in detail the processes in place to ensure that it can perform the role of the operational agent in case of resolution. In particular, the playbook is expected to explain:
  - ▶ Which specific roles the unit or entity within the group performs in business-as-usual and which markets this unit or entity covers;
  - ▶ How the bank plans to ensure that this entity or unit remains operational in resolution (enhancing resilience of the entity);
  - ▶ Whether the bank has established a resolution-proof contract or service level agreement for this purpose;
  - ▶ Whether the unit or entity could be realistically replaced by a third party if necessary (within what timeframe and at what cost).

### 3.1.2. Communication

26. Like governance, communication is crucial for all aspects and phases of the bail-in operationalisation. Should the bank address communication aspects in a separate document (e.g. the bank's communication plan in resolution), the playbook is at least expected to include:

- a) the guiding communication principles, providing an overview of the communication strategy for bail-in purposes in the preparatory phase, during the resolution weekend and bail-in implementation, and in the closing phase;
- b) the main communication steps in the overall chronological display of operational steps, to ensure a comprehensive overview of the process and to identify interdependencies between the steps; and
- c) a reference or a link to the separate stand-alone communication plan, which should provide more detailed information on general communication messages.

The playbook should focus on the communication aspects directly related to bail-in execution.

27. To cover the expectation regarding the timeline of operational steps on communication, the playbook should describe the related internal process, including the responsible organisation unit(s) or committee(s), the tasks to be conducted (including validation steps), the flow of information, including communication channels and outputs to be prepared. Banks are encouraged to show this overview in a flowchart.

28. The playbook is expected to describe, for each step in the process of external execution, which information needs to be communicated to which external stakeholder (in particular relevant market authorities, trading venues, agents and the CSDs, including contact

<sup>14</sup> Not foreseen in the prospectus. Agency contracts usually only cover business-as-usual events foreseen in the prospectus.

details, as appropriate). This includes basic information, such as the International Securities Identification Number (ISIN) or other codes and the relevant information set out in the national implementing act.

29. Regarding the timeliness of the communication, banks are expected to determine which information can be communicated to whom and at what point in time, bearing in mind legal restrictions and requirements, market reactions and potential threats to financial stability or successful resolution.<sup>15</sup>
30. The playbook should rely to the extent possible on the communication means and channels used in going concern with the different stakeholders, provided they remain available in crisis.

### 3.1.3. Disclosure obligations

31. The playbook is expected to assess and reflect on the bank's disclosure obligations under the Market Abuse Regulation (MAR)<sup>16</sup>, Prospectus Regulation<sup>17</sup> and national transposition of the Transparency Directive<sup>18</sup> which might arise prior to and during the bail-in period. The playbook is expected to describe the process to address the disclosure obligations, as well as the operational steps needed to enable the immediate publication of the resolution authority's resolution order or notice summarising the effects of the resolution action, on the bank's website in line with Article 83(4)(c) BRRD.
32. The assessment of disclosure obligations, which might arise prior to and during the bail-in period, should cover all jurisdictions in which the bank has listed securities and which impose disclosure obligations on the resolution group. For banks with instruments listed outside the EU, the role of disclosure requirements under third-country law (*e.g.* US) should also be assessed.
33. The assessment should also include an analysis of the steps to be taken by either the bank or the resolution authority in the run up to resolution (*e.g.* requests for information to support a valuation; appointment of valuers by the resolution authority; on-site visits by the resolution authority's employees or agents in preparation for resolution) to determine whether such steps might trigger disclosure obligations on the side of the bank.
34. The assessment should indicate whether the bank plans to request the application of waivers or temporary exemptions from certain disclosure requirements. This assessment should include a consideration of whether and how the bank would seek to make use of potential delayed disclosures under Article 17(5) MAR in order to avoid disclosing information prior to publication of the resolution decision, which could prejudice the successful resolution of the bank or could require the resolution decision to be accelerated.

<sup>15</sup> Note that, as per Art. 35 BRRD, the NRA may appoint a special manager to replace the management body of the institution under resolution. The special manager would therefore control the information (content, timing, audience) the institution would or would not disclose.

<sup>16</sup> Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC, as amended.

<sup>17</sup> Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC, as amended.

<sup>18</sup> Directive 2004/109/EC of the European Parliament and of the Council on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market, as amended.



### 3.1.4. Business reorganisation plan

35. For banks where either the preferred or the variant resolution strategies envisage the use of the bail-in tool for the purposes of Article 27(1)(a) SRMR, the bail-in playbook should lay down the arrangements, *i.e.* processes, in place to ensure the smooth implementation of the bail-in tool by the bank and should therefore contain the arrangements that the institution has taken or will take to produce a BRP.
36. Article 27(2) SRMR provides that the bail-in tool may be applied for the purpose of Article 27(1)(a) SRMR only if there is a reasonable prospect that the application of that tool together with other relevant measures including measures implemented in accordance with the BRP required by Article 27(16) SRMR will, in addition to achieving relevant resolution objectives, restore the bank to financial soundness and long-term viability. According to Article 27(16) SRMR, the SRB shall receive a BRP in accordance with Article 52 BRRD within one month after the application of the bail-in tool. According to Article 51 BRRD, when the bail-in tool is applied, arrangements should be in place to ensure that a BRP is drawn up and implemented pursuant to Article 52 BRRD.
37. The BRP has to be distinguished from the restructuring plan required by the European Commission (Directorate-General for Competition) in the context of State aid. Under State aid rules, a bank which is subject to resolution, restructuring, or liquidity measures involving State aid or the use of the Single Resolution Fund, is required to submit *ex-ante* a restructuring plan to the Commission. The BRP and the restructuring plan share the common objective of restoring the long-term viability of the resolved bank (or parts of its business). The two plans, however, differ on a number of other aspects, *e.g.* are governed by different procedures and involve different counterparties. Nevertheless, the BRP needs to be compatible with the requirements of the restructuring plan approved by the Commission. Therefore, where the approved restructuring plan foresees certain binding commitments and measures to be undertaken by the bank post-resolution (*e.g.* divestment of certain activities or subsidiaries, acquisition and/or advertising ban, etc.), the BRP would have to take them into account. For more details on the mandatory content of the BRP, Article 52 BRRD and Commission Delegated Regulation (EU) 2016/1400 should be consulted.
38. The bail-in playbook is expected to describe the process for the production of a BRP (not the content). This should include a timeline, the responsible organisation unit(s) or committee(s), the tasks to be conducted (including, but not limited to, reporting lines and validation steps by the management body), and the flow of the information or outputs that are to be produced. This may vary depending on the content of the BRP and should be adjusted to the actual situation. Institutions are encouraged to show an overview of this process in a flowchart. Taking into account Article 52 BRRD, the bail-in playbook is expected to address the processes needed for the production of the following elements:
  - ▶ **Drafting the BRP:** Banks are expected to perform preparatory work for processes related to the BRP during their resolution planning and resolvability work.<sup>19</sup> Interactions with the resolution authorities are expected during this drafting process. The process laid down in the bail-in playbook should incorporate as a minimum the following elements:
    - ▶ How a comprehensive analysis of the bank after the application of the bail-in tool

<sup>19</sup> For example, based on further stressed recovery scenarios or specific resolution scenarios.

is foreseen to be produced.<sup>20</sup> The comprehensive internal analysis should include an update of the risk profile of the bank by the risk management unit, an update of the key indicators by business lines and legal entities (liquidity, non-performing exposures and asset quality, asset liability management, profitability and cost structure, productivity and efficiency), an identification of all existing shortcomings (regardless of whether they triggered a resolution or not) and an interconnectedness assessment post-resolution. The comprehensive internal analysis should rely on the relevant valuations and will require the issuance of an updated balance sheet and a profit and loss statement (P&L).<sup>21</sup>

- ▶ How an analysis of the markets in which the bank operates and a general assessment of the situation of relevant peers will be performed.<sup>22</sup> The bank should consider liaising with the authorities to discuss relevant benchmarks and market trends, risks and opportunities. Should the service of any independent expert<sup>23</sup> be requested by the bank, the procurement of said requested services should be included in the overall process;
- ▶ How projections and scenarios should be produced, in line with the available guidelines and based on a comprehensive internal and external analysis.<sup>24</sup> The relevant units of the bank should be involved in the process of producing these projections and scenarios, and they should take into account the inputs of the relevant valuations (particularly for the valuation of assets, entities and/or business lines). Together with the unit responsible for the recovery and resolution planning, they should leverage on any available business plans (including medium and long-term strategic plans, the recovery plan, any existing contingency plans and the operational continuity capabilities) to define a viable business model and the necessary accompanying measures. The reorganisation of the bank aiming at restoring its long-term viability could imply separation of functions, business lines, activities and/or group entities. The Legal and Human Resources units should be involved to ensure that the BRP and the proposed reorganisation is in line with legal and labour requirements;
- ▶ How internal reporting lines as well as external communication lines with the authorities are established. The process should describe as much as possible the foreseen interactions with the relevant authorities. In order to keep the timeline as short as possible, interactions with authorities will present the advantage of mitigating any potential future misunderstandings or disagreements during the drafting period;
- ▶ How alignment is ensured between the communication plan and the content of (i) the BRP and (ii) any possible existing restructuring plans transmitted to the European Commission;<sup>25</sup>
- ▶ How the sign-off process for the management body looks like.<sup>26</sup>
- ▶ **Assessment by the relevant authorities:** The bail-in playbook should lay down the communication lines between the authorities and the bank in order to address

<sup>20</sup> In line with Commission Delegated Regulation (EU) 2016/1400 and European Banking Authority (EBA) guidelines on the minimum criteria to be fulfilled by a business reorganisation plan (EBA/GL/2015/21).

<sup>21</sup> Commission Delegated Regulation (EU) 2016/1400 Art. 3(1)(d): a post-resolution balance sheet reflecting the new debt and capital structure and the write-down of assets based on the valuation conducted pursuant to Art. 36(1) BRRD or the ex-post definitive valuation referred to in Art. 36(10) thereof.

<sup>22</sup> In line with Commission Delegated Regulation (EU) 2016/1400 and EBA/GL/2015/21.

<sup>23</sup> In line with Art. 2(3) Commission Delegated Regulation (EU) 2016/1400.

<sup>24</sup> In line with Art. 3 Commission Delegated Regulation (EU) 2016/1400 and EBA/GL/2015/21.

<sup>25</sup> In line with EBA/GL/2015/21.

<sup>26</sup> In line with the Commission Delegated Regulation (EU) 2016/1400 and EBA/GL/2015/21.

any potential questions/comments from the authorities about the BRP. The bail-in playbook should describe the sequence through which the bank will internally address timely and efficiently the questions and/or comments communicated by the authorities during the assessment period;

- ▶ **Amendments to the BRP:** The bail-in playbook should describe the process supporting the amendments to the BRP in line with the conclusions of the relevant authorities in a timely manner with the relevant control and approval steps;
- ▶ **Monitoring process:** The bail-in playbook should include an identification of the internal units, which are responsible for monitoring the bank's progress towards targets foreseen in the BRP, including reporting lines to the senior management.

## 3.2. Identification of instruments and provision of data

39. The EfB stipulates in Principle 2.3 point (v), that banks have to make arrangements to ensure that the information (on instruments, processes and data) delivered to the resolution authorities for the operationalisation of bail-in is up-to-date, complete, accurate and has been subject to a quality assurance process. Moreover, the banks are expected to demonstrate their MIS capabilities in the playbook. This section therefore provides guidance on the expectations for the playbooks regarding the identification of bail-inable instruments and the gathering and provision of data points for those instruments.

### 3.2.1. Identification of instruments

40. Banks are expected to identify the different instruments in order to operationalise the bail-in. This is an important part of the playbook for two reasons:
- ▶ It sets out the basis for the provision of data for implementing the bail-in tool based on the resolution decision and the respective national implementing act (see Chapter 3.2.2);
  - ▶ It is a precondition to executing the bail-in (Chapters 3.3 and 3.4).

In this regard, banks are expected to identify two broad categories of liabilities in line with Article 27 SRMR:

- ▶ Liabilities mandatorily excluded from the scope of bail-in pursuant to Article 27(3) SRMR;
  - ▶ Capital instruments and eligible liabilities subject to the write-down and conversion powers under Article 21 SRMR, and bail-inable liabilities as defined in Article 3(49a) SRMR, as amended.
41. Banks are expected to identify instruments depending on their type, creditor hierarchy rankings and internal bank specificities, e.g. banks' internal processes may be different for an Additional Tier 1 (AT1) instrument when compared to a Tier 2 (T2) instrument, or the same instrument may be used in different front office systems. The sequence of operational steps to identify each type of instrument is expected to be shown in the playbook,

including a clear timeline.<sup>27</sup> Banks are also expected to highlight potential challenges and/or impediments for each step, with the objective of continuously improving readiness and resolvability.

42. Resolution authorities may exclude or partially exclude certain liabilities from the application of bail-in, in accordance with the applicable law (Article 27(5), (12) and (14) SRMR, Article 44(3) BRRD and the Commission Delegated Regulation (EU) 2016/860), where:

- a) It is not possible to bail-in that liability in a reasonable time notwithstanding the good faith efforts of the relevant NRA;
- b) The exclusion is strictly necessary and is proportionate to achieve the continuity of critical functions and core business lines in a manner that maintains the ability of the bank under resolution to continue key operations, services and transactions;
- c) The exclusion is strictly necessary and proportionate to avoid giving rise to widespread contagion, in particular as regards eligible deposits held by natural persons and micro, small and medium-sized enterprises, which would severely disrupt the functioning of financial markets, including of financial market infrastructures, in a manner that could cause a serious disturbance to the economy of a Member State or of the EU; or
- d) The application of the bail-in tool to those liabilities would cause a destruction in value such that the losses borne by other creditors would be higher than if those liabilities were excluded from bail-in.<sup>28</sup>

The identification of liabilities that might possibly be subject to discretionary exclusion shall be done by the resolution authorities at the point of resolution based on, *inter alia*, information provided by the banks and taking into account the elements above.

43. The playbook is expected to document any legal, financial, operational, tax and accounting features that may be relevant to identify the instruments, or to establish the necessary processes. To determine these features, banks are expected to take into account the aspects listed below. The list is indicative and not exhaustive.

- a) **Divergence between the hierarchy of creditors in resolution and under national insolvency frameworks:** In some jurisdictions, the sequence for write-down and conversion, established under the BRRD and the SRMR, may diverge from the ranking of priority claims under national insolvency law. As a result, there may be the risk of breaching the No Creditor Worse Off (NCWO) principle, and this divergence is expected to be reflected in the playbook (particularly, when the group is active in several jurisdictions, with different insolvency rankings);
- b) **Common Equity Tier 1 (CET1) items:** The Capital Requirements Regulation (CRR) makes the distinction between the items and instruments to be counted as own funds. Resolution authorities should cancel or proportionally write-down all shares (or other instruments of ownership) and any other a) CET1 item<sup>29</sup> or b) instruments qualifying as CET1 items<sup>30</sup> (e.g. capital instruments of mutual, cooperative societies or saving institutions). This identification is important because, due to the existence

<sup>27</sup> Banks are encouraged to use flow charts for this purpose.

<sup>28</sup> In line with Art. 9 Commission Delegated Regulation (EU) 2016/860.

<sup>29</sup> As defined in Art. 26 CRR.

<sup>30</sup> See Art. 27 CRR.

of prudential filters and capital deductions, not all liabilities ranking *pari passu* with CET1 items would effectively absorb losses – whereas some other liabilities would indeed be able to absorb losses (from an accounting perspective) even if they are not counted towards CET1.

- ▶ Treasury shares, for instance, are equity instruments but, since a deduction is in place for these instruments, they are not expected to absorb losses in resolution.
- ▶ In contrast, some CET1 items that are filtered out of CET1, due to CRR rules on prudential filters, would be able to absorb losses in a bail-in. These could be for example own funds elements resulting from securitised assets, cash flow hedges<sup>31</sup>, changes in the value of own liabilities or changes in equity due to fair value adjustments.

The playbook is therefore expected to distinguish and describe both CET1 items and any item other than CET1 items, but ranking *pari passu* with CET1 items, and to assess their ability to contribute or not to loss absorption.

- c) **AT1 instruments and T2 instruments:** AT1 instruments and T2 instruments are expected to be identified in their entirety, as they will be bailed-in in their entirety (if necessary), regardless of whether or not they count as own funds:<sup>32</sup>

- ▶ AT1 instruments grandfathered under Article 52 CRR should be treated in the same way as AT1 instruments which meet all of the conditions of the CRR.
- ▶ T2 instruments that are only partially included in the calculation of own funds because they are subject to the amortisation regime of Article 64 CRR should be treated in the same way as those T2 instruments, which are fully included in the calculation of own funds.

- d) **Identification of accounting and economic hedges:** The playbook is expected to identify any existing hedges impacting or associated with CET1 instruments (hedge accounting), AT1/T2 instruments and bail-inable liabilities. These hedges could be:

- ▶ Accounting hedges, either under International Financial Reporting Standards (IFRS) or national Generally Accepted Accounting Principles (GAAP), applied in order to eliminate excessive volatility in the P&L, which are expected to be adjusted post-bail-in;
- ▶ Economic hedges on the interest rate (e.g. floating – fixed) or on foreign exchange (FX) risk (e.g. currency matching) for bail-inable instruments, which could end up as open positions post-bail-in. Those open positions might generate additional losses.

The playbook is also expected to lay down how the relevant hedges for the instruments covered in the bail-in playbook can be identified at the point of resolution. The need for the identification and mapping results from the bail-in process potentially leading to open hedges.<sup>33</sup> This is relevant from a risk management perspective as the bank exposes itself to market risks in both cases. As this can create additional losses the

<sup>31</sup> In line with Art. 33(3) CRR.

<sup>32</sup> According to Art. 72 CRR, AT1 and T2 instruments may not count as own funds. Nonetheless, all AT1 instruments should rank *pari passu* with AT1 instruments that are recognized as own funds. The same logic applies to T2 instruments. Please see the EBA guidelines concerning the interrelationship between the BRRD sequence of write-down and conversion and CRR/CRD (EBA/GL/2017/02).

<sup>33</sup> There are two cases: (1) the hedge is still on the books but the hedged instrument is written down or converted, and (2) the hedge is subject to bail-in but the underlying instrument is still on the books. The first case is going to apply for all underlying instruments that have a lower creditor hierarchy rank than the derivatives (say, if the bank hedged its T2 issuance). In practice, this case is therefore expected to be more relevant than the second case. The second case implies that the underlying has a higher rank than the derivative.

bank will need to react (e.g. close out the hedge).<sup>34</sup> See further information in point 53f of the Chapter on internal execution;

- e) **Funding or guarantees by other group entities:** Banks should identify liabilities held by other group entities (independently of whether they are funded directly or indirectly by the bank), as well as the intra-group liabilities guaranteed by the bank. This identification should consider the prudential treatment of the instruments prior to resolution and in case of conversion. Moreover, Article 44(2)(h) BRRD<sup>35</sup> provides for an exclusion for liabilities to entities “that are part of the same resolution group without being themselves resolution entities, regardless of their maturities, except where those liabilities rank below ordinary unsecured liabilities under the relevant national law governing normal insolvency proceedings applicable on the date of transposition [of the BRRD]; in cases where that exception applies, the resolution authority of the relevant subsidiary that is not a resolution entity shall assess whether the amount of items complying with Article 45f(2) [of the BRRD] is sufficient to support the implementation of the preferred resolution strategy.”;
- f) **Contingent liabilities<sup>36</sup> and provisions<sup>37</sup>:** Banks are encouraged to identify the different types of contingent liabilities and analyse those that generate a liability when they materialise in the playbook. Banks are also encouraged to analyse provisions and the national legal framework regarding those provisions in resolution and insolvency;
- g) **Treatment of accrued interests:** It is expected that the accrued interest will be written down together with the principal, unless the accrued amount has a different creditor hierarchy ranking;<sup>38</sup>
- h) **Governing law and contractual recognition clauses:** To assess potential impediments to the recognition of bail-in, banks are encouraged to include an analysis of their instruments with regard to governing law as well as the enforceability of contractual recognition clauses for instruments’ issuances under third country law which are included for bail-in (Article 55 BRRD);
- i) **Counterparties and contagion risks:** Banks are encouraged to include an analysis of the major counterparties and the related sectors, if this counterparty/sector is a significant (e.g. top-50) shareholder, bondholder or (if covered by the scope of the playbook) depositor. While this may not be relevant for the bail-in execution process itself, it contributes to understanding the impact of a bail-in on external counterparties, as well as on the ownership structure of the institution. This will support the resolution authorities in assessing the effect on potential contagion risk.

<sup>34</sup> This is also relevant from an operational continuity perspective, the relevant derivatives desks needs to be maintained.

<sup>35</sup> Note that letter (h) of Art. 44(2) BRRD was introduced by Art. 1(15) of Directive (EU) 2019/879.

<sup>36</sup> Contingent liabilities are not recognized as liabilities and not recorded on the balance sheet and could be, as such, reflected as off-balance sheet items. Not all off-balance sheet items are contingent liabilities.

<sup>37</sup> Contingent liabilities should be distinguished from accounting “provisions”. Provisions are defined as liabilities (recorded on the balance sheet) of uncertain timing or amount. A provision may relate to a previously disclosed contingent liability, although this is not always the case.

<sup>38</sup> In some jurisdictions, accrued interests may have a different creditor hierarchy ranking than that of the corresponding principal amount. Moreover, in some jurisdictions, accrued interest which is not due and payable as at the date and time of resolution is deemed discharged by operation of law as a consequence of the write-down of the principal amount in relation to which such interest has accrued (i.e. there is no reference to a write-down of such accrued interest in the NRA implementing decision).

### 3.2.2. Data provision

44. Considering the specific guidance of the IRT, the bail-in playbook is expected to include a list with the data points necessary for the following purposes:

- a) Calculation and setting the bail-in perimeter in the context of the entire resolution strategy;
- b) Required assessments by the resolution authorities (*e.g.* assessment to (partially) exclude liabilities to achieve the continuity of critical functions or avoid significant adverse effects on financial stability, Article 27(5) SRMR);
- c) Implementation of the bail-in.

Examples for such data points are the ISIN, the name of the CSD, the principal amount in EUR, or the accrued interests in EUR.<sup>39</sup> It is recommended that the playbook includes a table that specifies process details (*e.g.* information source, responsible area, and if the data point is provided manually) with respect to relevant type of instruments (*e.g.* ordinary shares, T2 securities, senior non-preferred bonds, etc.).

45. The list of required bail-in data points is generally based on the minimum list of data points defined by the SRB in cooperation with the respective NRA for the purpose of bail-in execution – and might be amended by country-specific data requirements.<sup>40</sup> If the bank includes additional data points that have not been previously defined by the resolution authorities, the bank is expected to explain the reason for the inclusion of a specific data point.
46. In line with Principles 2.3 and 5.3 of the Efb, the playbook is expected to demonstrate the bank's MIS capabilities to support the gathering and provision of data. In other words, the banks are expected to demonstrate in the playbook how the different data points will be produced per each type of instrument. It should include a reference to the involved units and interactions between IT systems<sup>41</sup>, the different outputs and output recipients, and the potential committees/units that are necessary to validate the processes. Banks are encouraged to use flow charts in order to support the description of interactions.
47. In order to demonstrate the MIS capabilities, the playbook is also expected to describe how long it would take to generate the data points per type of instrument, to which extent the generation process is automated, and for which items work-arounds would be applied.
48. Banks are expected to report the progress on the automation process for timely bail-in data delivery, in line with Principle 2.3 of the Efb.

<sup>39</sup> Banks are *not* required to populate any table with figures in the playbook though.

<sup>40</sup> See the document "SRB Bail-in Data Set: Explanatory note".

<sup>41</sup> Banks are encouraged to use flow charts in this regard.

### 3.3. Internal execution

49. As a key element of the playbook, banks are expected to include a detailed description of all internal processes related to the decision of the resolution authority to reduce instruments and convert them to equity.

This description is expected to be in line with the sequence of write-down and conversion events envisaged in Article 48 BRRD, to be presented in a sequential view, and to be presented in graphic and/or tabular forms. The description is expected to name the responsibilities (including the relevant contact points) and tasks per unit (and entities if relevant), as well as the relevant IT systems, the interaction between IT systems, associated information outputs (*e.g.* specific data report) and the output recipient for each operational step.<sup>42</sup> The description is expected to be done separately per type of instrument.<sup>43</sup>

50. A clear and detailed timeline is expected to be set for each individual step (also in a calendar view), assuming that the resolution scheme and the national implementing act will be published, for example, on Sunday evening or Monday morning, prior to the opening of the markets.<sup>44</sup>
51. Banks are expected to highlight manual steps per type of instrument (including the impact of those steps on the time schedule and use of resources). Banks are also expected to highlight potential challenges and/or impediments for each step, with the objective of continuously improving readiness and resolvability.
52. The process description should be based on the assumption that the implementation of the bail-in decision will be based on a provisional valuation. It is important for banks to ensure that the economic losses predetermined on the basis of that provisional valuation can be recognised in the accounts during the resolution weekend. This might not always be straightforward.

Banks are therefore expected to describe the process to update their accounting balance sheet based on the outcome of the provisional valuation. The provisional valuation will produce an aggregated amount of economic losses to be absorbed by the economic value of the bank's liabilities. The accounting value of assets will have to be adjusted to take into account the losses identified in the provisional valuation. The accounting value of liabilities will have to be adjusted accordingly under the relevant accounting standards (IFRS or GAAP) on a consolidated and on an individual basis. Based on the adjusted accounting balance sheet, own funds will have to be calculated on a prudential basis.

53. Banks are expected to describe the capabilities and processes to produce financial information (according to Article 36(6) BRRD), including estimations of own funds requirements, taking into account the available inputs (*e.g.* determination of post-resolution capital requirements set by the authorities) and including the provisional valuation results. Although not exhaustive, the following aspects are expected to be envisaged by banks while drafting their playbooks:

<sup>42</sup> Banks are encouraged to use flow charts for this purpose.

<sup>43</sup> This should not lead to a duplication of process descriptions. If the processes for some instruments (*e.g.* certain senior preferred and senior non-preferred instruments) are the same, it is sufficient for the banks to briefly point this out.

<sup>44</sup> The reference to the "weekend" should be made just for illustration purposes. The adoption and publication of the resolution scheme or subsequent implementing act may take place on a weekday.



- a) **Legal impediments:** The playbook is expected to provide further detail on the impact, if any, of a bail-in on the by-laws/articles of association and to clearly state if there are obstacles to the application of the bail-in related to the legal form of the bank. In particular banks affiliated to a cooperative network and state-owned banks are expected to assess these obstacles. Furthermore, the playbook is expected to consider the impact that a change of ownership due to the application of the bail-in can have on:
- ▶ authorisations to operate in non-banking union countries, within and beyond the EU;
  - ▶ triggers of specific notifications (e.g. state aid/regulatory notifications);
  - ▶ qualifying holding assessments;
  - ▶ memberships in group/sectoral contracts and trade associations;<sup>45</sup>
  - ▶ compliance with the relevant national legislation,<sup>46</sup> by-laws or articles of associations;<sup>47</sup>
  - ▶ approvals of issuances of capital instruments as CET1 instruments under Article 26(3) CRR. In particular, banks should be able to provide the relevant information to the competent authorities as soon as possible after bail-in;
  - ▶ any other approvals that authorities may require for the new shareholders.
- b) **Accounting impediments:** Some legal and statutory reserves might pose a challenge during bail-in, either because they cannot be written down below a defined minimum level or because they would require specific treatments, which are expected to be presented in the playbooks in accordance with applicable laws;
- c) **Tax impact:** The bail-in execution might have several tax impacts that are expected to be assessed in the playbook to the extent possible for each operational step. The following elements provide an indication of what is expected:
- ▶ In accordance with IFRS 9 paragraph 3.3.3 and International Accounting Standards (IAS) 32, the write-down of shares and other CET1 should in principle be tax neutral<sup>48</sup> whereas the write-down of other instruments can generate a taxable 'profit' depending on national tax law.<sup>49</sup> The conversion of own funds and/or liabilities should be tax neutral for the resolved bank only when the conversion rate is 100%. But in case the conversion rate is lower than 100%, then it could generate a taxable 'profit' or a deductible 'loss' according to the conversion factors (differences between the carrying amount of the instrument written down and the value of corresponding new shares) depending on national tax law;
  - ▶ The tax loss carry-forward (TLCF), which could offset the taxable item stemming from the bail-in execution, might either increase or be cancelled according to ap-

<sup>45</sup> Especially for banks affiliated to a cooperative sector or other network of financial institutions, the membership in a specific trade association may be a requirement. If the membership ends, other contracts between the members of that cooperative network may be void. For other banks, the membership in a trade association is not expected to be of any relevance. More broadly, Art. 68(3) BRRD generally excludes termination of related rights based on resolution or directly linked events per se. The change of ownership should be considered an event directly linked to write-down and conversion in resolution.

<sup>46</sup> For instance, in some countries the law states that cooperative shares can only be owned by certain categories of natural persons.

<sup>47</sup> For instance, if the creditor that received the shares has a limitation to hold the shares under its by-laws or articles of associations.

<sup>48</sup> Exceptions according to national law may apply, e.g. in cases when share capital has been increased in the past by including certain specific reserves which are subject to tax in case of any use (including, therefore, a scenario where the ordinary shares are cancelled to absorb losses), the cancellation of the ordinary shares may give rise to tax implications which have to be evaluated on a case-by-case basis and depending national specificities.

<sup>49</sup> In line with IAS 32, according to the nature of the instrument (either own funds elements or debts), the taxable profit will be recorded either in the other comprehensive income (OCI) or in the P&L.

plicable law. Besides, some losses might not be deductible the year they occur<sup>50</sup> reducing the offsetting impact of the TLCF. The playbook should include:

- i. information on the bank's ability to generally determine whether any losses could be turned into TLCF under applicable law and the potential size thereof;
  - ii. a general view on whether authorities accept/grant such TLCF;
  - iii. information on the impact of such TLCF on the accounting and prudential balance sheets.
- ▶ In the bail-in movements, hedges might be unwound or adjusted leading to potential taxable profits or deductible losses;
  - ▶ Tax effects might stem from the conversion of liabilities from a foreign currency to the domestic currency (see 'Instrument-specific features');
  - ▶ Clear references to applicable tax law(s) are expected to be made in the playbook to illustrate the tax effects. Even when the overall tax effect is assumed to be neutral due to offsetting effects, the process is expected to include a tax assessment and tax booking in the ledger and highlight manual input;
  - ▶ In some countries certain deferred tax assets (DTAs) can be converted into directly enforceable claims – tax credits (TCs) – against the State. In some cases this conversion may trigger the creation of a special equity reserve. On the basis of the above, banks are expected to provide:
    - i. background information explaining the country specificities (*i.e.* tax law applicable to the point of entry and subsidiaries;<sup>51</sup> the accounting sequence in resolution and information on how DTAs can be converted into TCs<sup>52</sup>); and
    - ii. based on balance sheet data, detailed information of the amount of DTAs which can be converted into enforceable claims against the State (*i.e.* tax credits), if any;
- d) **Instrument-specific features:** Specific features might trigger additional considerations. For example, liabilities issued in foreign currencies might have to undergo an FX conversion before being written down or converted. Any ensuing tax effect is expected to be assessed in accordance with the previous point. Another example of specific features might be the structured nature of the liability (*e.g.* a structured note). Additional expertise might be required in order to write-down/convert such a liability and apply the correct impact on the ledger. Unlisted instruments might also imply different execution steps;
- e) **Special Purpose Vehicles (SPVs):** Depending on the importance of the SPV, in case of write-down or conversion of the liabilities of the bank held by the SPV,<sup>53</sup> the bank should consider to mirror the economic effects of the bail-in on the SPV's books. In this case, the bank is expected to demonstrate how this will be done,<sup>54</sup>

<sup>50</sup> In some jurisdictions, expenses may not be deductible in the same fiscal year they are generated (long-term incentive plans, depreciation of certain assets) or not deductible at all (deferred tax assets, losses related to shareholdings in subsidiaries, unless liquidated). Hence, as they materialise only in the following year, they cannot be used to offset the TLF impact.

<sup>51</sup> Loss transfer mechanisms (as referred to in point 55) are expected to be taken into account in this assessment.

<sup>52</sup> Some Member States have introduced a transitional regime on corporate income tax applicable to DTAs giving right to beneficiaries to a conversion of the DTAs into cash proceedings.

<sup>53</sup> Please take into account additional mandatory exclusions according to Art. 44(2)(h) BRRD 2 (forthcoming).

<sup>54</sup> To provide a complete picture, effects on the asset side of the bank may also be described, as they are usually linked to the liabilities.

- f) **Hedges:** Following up on point 43d, new accounting and economic hedges might be considered after bail-in in order to limit the volatility of the P&L after resolution and to deal with the risks weighing on the new capital position. The playbook is expected to consider re-hedging as an operational step for the relevant instruments and the update of the related required hedge documentation;
- g) **Accrued interests:** Banks are not only expected to explain the processes related to the bail-in of the instrument itself (*i.e.* the principal) but also to the (partial or full) decrease of the value of the corresponding accrued interest. This may involve processes, units and IT systems that are different from those for the principal amount (see also point 43g for further information);
- h) **Liabilities held by the bank itself:** Banks might hold instruments issued by themselves that fall into bail-inable classes (*e.g.* treasury shares; subordinated liabilities kept for market making and funding strategy purposes). Those instruments are expected to be clearly identified; an assessment of any impact on legal risk, tax or balance sheet reduction following bail-in is expected;<sup>55</sup>
- i) **Adjustment of assumptions:** In line with Article 10(4) Commission Delegated Regulation (EU) 2018/345, the bank is expected to be able to apply adjustments to assumptions and accounting policies (*i.e.* the specific principles, bases, conventions, rules and practices applied by the bank to prepare its financial statements) necessary for the preparation of the updated balance sheet in a way that is consistent with the applicable accounting framework as much as possible.<sup>56</sup> This includes production of an updated balance sheet (post-resolution) as well as an explanation of the necessary steps to be done for the adjustments of the systems to produce the balance sheet taking into account assumptions and adjustments arising from the valuation.

**54. Bail-in adjustments:** Assuming that the bail-in execution will be performed following the provisional valuation, any discrepancy between the final and provisional valuation could lead to a revision of the amount to be written down and/or converted. The playbook is expected to present the process through which the correction ensuing the final valuation will be undertaken and how the ledger will be updated. The bank should be ready to adjust the accounts once the final valuation is available.

## **55. Loss transfer mechanisms:**

- a) The implementation of the bail-in tool aims to address the group's losses at the level of the point of entry and to recapitalise the point of entry only. It is therefore essential to document how the loss transfer mechanism would work and assess the mechanisms in place enabling the transfer of losses from the group's entities up to the point of entry and potential transfers of capital from the point of entry down to the rest of the group;
- b) The documentation on the loss-transfer mechanism should at least include the following entities:

<sup>55</sup> Once the loss has been absorbed, liabilities held by the bank itself could be written down generating a taxable profit, or converted. If converted, these liabilities will not count towards the capital requirements (Art. 28 CRR). Nonetheless, they could become treasury shares and support the remaining stock options for instance.

<sup>56</sup> For example, in line with IAS 8, the institution is expected to address prior period errors identified by the valuer (such as omissions from financial statements for one or more prior periods arising from a failure to use reliable information that was available and could reasonably be expected to have been obtained and taken into account in preparing those statements, due to mathematical mistakes, mistakes in applying accounting policies, oversights or misinterpretations of facts, etc.).

- i. entities for which MREL has been set and has not been limited to the loss absorption amount;
  - ii. entities for which MREL has been waived.
- c) With respect to intra-group financial support, as defined by the BRRD<sup>57</sup>, in order to be considered for the implementation of the bail-in tool transfer mechanisms should be legally enforceable at any time, and although they can vary between jurisdictions due to differing regulatory, legal or tax regimes, they are based either on contractual agreements or on applicable national regulation;
- d) Some of these transfer mechanisms might not be enforceable in resolution. For example, based on the national legal framework or on specific contractual clauses, the conditions of resolution might render a loss transfer mechanism void.<sup>58</sup> Therefore, banks are expected to analyse, in cooperation with the resolution authorities, whether different transfer mechanisms are enforceable at any time;
- e) The bail-in playbook is expected to identify and describe any potential transfer mechanisms and arrangements that would be enforceable in resolution. To this aim, banks could leverage on their recovery planning work. The expected description should include, as a minimum, the identification of the parties to the arrangement, the provisions supporting the transfer mechanism and the potential termination clauses (if any). Impediments regarding the effectiveness of execution and/or enforceability of the loss transfer mechanisms and potential remedial actions are expected to be presented in the playbook.

### 3.4. External execution

56. According to EFB Principle 2.3 point (3), bail-in playbooks should contain information on “arrangements for the external execution of write-downs and conversions”. The document also notes that banks need to have “systems and resources in place to generate rapidly” the necessary information, “including ISIN or other relevant information code and CSDs in which the securities are issued and are subject to safekeeping” and “identify the agents that would need to be involved in executing the write-down and conversion”.
57. The bank is expected to describe the process to execute<sup>59</sup> a write-down and conversion of relevant securities (including related timelines) separately per country and type of security<sup>60</sup> and, as noted in Chapter 1.2, to identify potential obstacles to the execution of each necessary step. The expectations for internal execution listed in point 49 and 50 will also apply for external execution.
58. This process will differ depending on, amongst others:

- ▶ Whether the securities are listed and traded<sup>61</sup> on a regulated market;

<sup>57</sup> Chapter III in the BRRD.

<sup>58</sup> This could be the case when contracts setting loss transfer mechanisms mention a list of conditions under which the loss transfer cannot operate and resolution or the resolution trigger might correspond to, at least, one of these conditions.

<sup>59</sup> For the sake of simplicity, the expression “external bail-in execution” or “execution” is used throughout the document to indicate the actions needed to be taken by stakeholders to give effect to the resolution decision, and in particular by CSDs to reflect the write-down and/or conversion on their books.

<sup>60</sup> As the elements on external execution in this guidance refer to securities only, the term “security” is used throughout, or in some cases “instrument”.

<sup>61</sup> Please refer to the glossary in Annex 2 for a definition of these and other terms.

- ▶ Whether the securities to be written down and converted and the new securities to be issued are held within one or several CSDs;
  - ▶ The location (the country) of cross-border issuances, if any;
  - ▶ Whether the national legal framework and/or the NRA foresee the issuance of interim securities<sup>62</sup> (including *e.g.* warrants distributed together with the shares resulting from the conversion in order to manage possible discrepancies between provisional and final valuation);<sup>63</sup>
  - ▶ Any other relevant national specificities (*e.g.* related to the implementation of the BRRD, to national securities law, to exchanges' or CSD's rulebooks, or to the stakeholders to be involved).
59. If the need for a particular action rests on a decision by the resolution authority, this is expected to appear clearly in the playbook, and the bank is expected to mention on what assumptions its descriptions are based.

#### **a. Trading suspension and delisting [trading venue]**

60. Per country and per type of security that might be written down/converted, the bank is expected to identify and/or describe:
- ▶ Whether the security is listed and traded on a regulated market (and/or other trading venues), and, if yes, on which one, and, for each market, which is the relevant market authority;
  - ▶ Whether the security would be cancelled and/or subsequently delisted from the exchange;
  - ▶ The different steps involved in ensuring a trading suspension and delisting (in particular for countries outside of the Banking Union);
  - ▶ Which information may be needed by the market operators, and by which time they would need to receive this information.

#### **b. Write-down and cancellation [CSD, in some cases NNA]**

61. Per country and per type of security that might be written down/converted or (in case of shares) cancelled, the bank is expected to identify and/or describe:
- ▶ The ISIN or other codes (*e.g.* CUSIP in the US) and the name of the issuances;
  - ▶ The internal and external stakeholders involved (see Section 3.1 Governance), and in particular the CSDs where the securities have been issued and are being safekept;
  - ▶ The different steps involved in the write-down of the different securities with, to the extent possible, the time it would take to execute each step;

<sup>62</sup> Certain jurisdictions intend to require banks to issue interim instruments, such as warrants or certificates of entitlement, pending final valuation. These are then exchanged for equity once such valuation has been completed.

<sup>63</sup> Banks are only expected to take this into account to the extent that this is applicable and/or has been outlined by the relevant NRAs.

- ▶ The information necessary for the CSD to execute the write-down on its books;
- ▶ The different agent(s) that the bank would use to ensure that operational information is adequately transmitted to the relevant common depositories, common service providers and/or CSDs if and when it fails (see also Chapter 3.1.1 in this regard);
- ▶ The relevant governing law;
- ▶ If the securities are meant to be cancelled<sup>64</sup>, how cancellation would be ensured, *i.e.*:
  - ▶ Roles and responsibilities with regard to ensuring that the CSD cancels the securities in its books;
  - ▶ Under what circumstances the CSD would record the cancellation according to its internal rules;
  - ▶ Steps and duration of the process.

### c. Conversion of securities and issuance of new shares [CSD, NNA]

62. Per country and per type of security that would be issued,<sup>65</sup> including as a consequence of conversion, the bank is expected to identify and/or describe, in addition to the items listed above:

- ▶ The CSD(s) where the new equity securities will be issued and kept in book-entry form. If this CSD is different from the CSD in which the converted securities have been issued (e.g. in the relevant country, the CSDs for equities and bonds are different; or the securities have been issued abroad), this is expected to be clearly mentioned;<sup>66</sup>
- ▶ How the security will be structured with a view to meeting the eligibility requirements of the relevant CSD(s), including the ICSDs, if appropriate;
- ▶ Where appropriate, the steps that would be followed (including information to be prepared, forms to be filled, etc.) and time needed to prepare the (new) global note or similar document for registration with the CSDs and obtain ISIN or other codes from the NNA for the new shares;
- ▶ The different steps involved in the conversion and issuance with, to the extent possible, the time it would take to execute each step.

63. **When the issuing CSD differs from the CSD executing the write-down and/or conversion.** CET1 instruments (including interim instruments) are usually foreseen to be issued in the relevant domestic CSD.<sup>67</sup> Some of the instruments that would be written down and/or converted are safekept in other CSDs, either in the same country or in a different country (e.g. bonds safekept in a foreign country or in an ICSD converted into shares issued in the domestic CSD). In that case, the bank is expected to describe how an alignment can be ensured in spite of any de-synchronised operations at the different CSDs.

<sup>64</sup> Pursuant to Art. 47(1) BRRD for the cancellation of shares.

<sup>65</sup> For the purpose of the playbook, banks may assume that only one type of CET1 instrument will be issued and that it will be issued in the domestic market, except if specified otherwise, for example, under the national bail-in approach.

<sup>66</sup> Banks are expected to take into account any guidance provided by the relevant NRA on this matter. In the absence of such guidance, banks should assume that the new instruments are issued in the relevant domestic CSD.

<sup>67</sup> Located in the same country as the point of entry of the group.

#### **d. Listing and (re-) admission to trading and to clearing [trading venue, CCP]**

64. Per country and per type of securities that would be listed/admitted to trading (or re-listed/re-admitted to trading in case the security is not cancelled but merely temporarily suspended from trading)<sup>68</sup>, the bank is expected to identify and/or describe what type of securities it expects the instrument (re-)admitted to trading to be. This is expected to be based on the approach to bail-in adopted in the relevant jurisdiction. The bank should for example distinguish between:
- a) In cases where the national bail-in approach foresees that existing shares would be distributed to the new shareholders: CET1 instruments re-listed/re-admitted to trading;
  - b) New CET1 instruments listed and admitted to trading for the first time;
  - c) Partially converted debt instruments re-listed/re-admitted to trading or for which the suspension of trading would be lifted.
65. In cases where new instruments (including interim instruments) are foreseen to be listed and traded on a regulated market, the bank is expected to identify and/or describe:
- ▶ How it would be described in the information notice, prospectus<sup>69</sup> or other documentation (in broad lines), as appropriate;
  - ▶ How it would be structured with a view to meeting the listing requirements (if applicable)<sup>70</sup> of the relevant regulated market and the eligibility requirements of the relevant CCPs.
66. In all cases, the bank is expected to identify and/or describe:
- ▶ The operational timeline for ensuring (re-)listing and (re-)admission to trading, and the target date for submitting the request;
  - ▶ The process for (re-)listing and (re-)admission to trading;
  - ▶ Information needed by the exchange (besides the content of the information notice mentioned above), including consequential obligations of being listed.

<sup>68</sup> In most cases, existing shares would be expected to be cancelled and new shares issued. However, in some cases, the national bail-in approach foresees that existing shares would be distributed to the new shareholders. This is the approach foreseen in the UK. For the sake of simplicity, this is designated as "re-listing/re-admission to trading" in the present document.

<sup>69</sup> Securities issued in the event of bail-in and resulting from the conversion or exchange of other securities, own funds or eligible liabilities by a resolution authority are exempted from prospectus requirements in the EU, as per BRRD Art. 53(2)(d) BRRD (debt instruments only) and Art. 1(5)(c) of the Prospectus Regulation (Regulation 2017/1129). However, there is uncertainty as to requirements that may apply if such securities are distributed to investors in a third country.

<sup>70</sup> Note that Art. 53(2)(c) BRRD empowers resolution authorities to give effect to the listing or admission to trading of new shares or other instruments of ownerships. Nevertheless, banks are expected to design instruments in a way that meets these requirements.





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# ANNEX 1 – IMPACT OF THE BANKING REFORM PACKAGE

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The BRRD and the SRMR have been amended by Directive (EU) 2019/879 and Regulation (EU) 2019/877, respectively.

Directive (EU) 2019/879 and Regulation (EU) 2019/877 are part of a comprehensive package of legislative measures which reform not only the BRRD and SRMR but also the CRR and the CRD, with the overall objective to further reduce risks in the banking sector.

From a resolution perspective, the main amendments brought about by the Banking Reform Package that are relevant for the exercise of the write-down and conversion powers and the application of the bail-in tool relate, *inter alia*, to the:

- ▶ Scope of application of bail-in, with the mandatory exclusion of (i) liabilities with a remaining maturity of less than seven days owed to authorised and recognised CCPs and of (ii) intragroup liabilities except where these liabilities rank below ordinary unsecured liabilities under the relevant national insolvency law (Article 44 BRRD and Article 27 SRMR);
- ▶ Extension of the write-down and conversion powers to certain eligible liabilities (Article 59 BRRD);
- ▶ Ranking of unsecured debt instruments in insolvency hierarchy (Article 108 BRRD);
- ▶ Sequence of write-down and conversion (Article 48 BRRD and Article 59 BRRD);
- ▶ Selling of subordinated liabilities to retail clients (Article 44a BRRD);
- ▶ Rules on contractual recognition of resolution stay powers (Article 71a BRRD);
- ▶ Moratorium tool (Article 33a BRRD); and
- ▶ Rules on contractual recognition of bail-in (Article 55 BRRD).

BRRD	Summary of selected changes (See the mentioned articles for further details)	SRMR-equivalent article	Possible impacts on bail-in playbooks
Art. 2(1) (48) <sup>71</sup>	Revised definition of “debt instruments”		The amended definition refers to the amended BRRD Art. 108, which can lead to an amended hierarchy of creditors under national insolvency laws. In playbooks, banks should identify divergences between the hierarchy of creditors in resolution and under national insolvency frameworks.
Art. 2(1) (68a)	Definition of “Common Equity Tier 1 capital” (as a separate definition to “Common Equity Tier 1 instruments”)	Art. 3(1) (45a)	
Art. 2(1) (71), (71a), (71b)	Definition of “bail-inable liabilities” (71), “eligible liabilities” (71a) and “subordinated eligible instruments” (71b)	Art. 3(1) (49), (49a), (49b)	Banks should be able to distinguish “bail-inable liabilities” (relevant for bail-in scope after mandatory exclusions), “eligible liabilities” (relevant for MREL and write-down and conversion of capital instruments and eligible liabilities (BRRD Art. 59)) and “subordinated eligible instruments” (relevant for MREL and selling to retail clients (BRRD Art. 44(a))) in MIS.
Art. 2(1) (83a), (83b), (83c)	Definition of “resolution entity” (83a), “resolution group” (83b) and “G-SII” (83c)	Art. 3(1) (24a), (24b), (24c)	
Art. 36	“Capital instruments” replaced by “capital instruments and eligible liabilities”	Art. 20	The amendments made take into account the definitions of “bail-inable liabilities” and “eligible liabilities” (see above) for the valuation carried out for the purpose of resolution.
Art. 44(2)(f)	Exclusion from the scope of bail-in of liabilities with a remaining maturity of less than seven days owed to authorised/ recognised CCPs	Art. 27(3)(f)	Banks should be able to isolate these liabilities in their MIS. Banks should assess the associated NCWO risk.
Art. 44(2)(h)	Exclusion from the scope of bail-in of intragroup liabilities ( <i>rectius</i> liabilities to institutions or entities referred to in point (b), (c) or (d) of Art. 1(1) BRRD that are part of the same resolution group without being themselves resolution entities), regardless of their maturities, except where those liabilities rank below ordinary unsecured liabilities under the relevant national law governing normal insolvency proceedings applicable on the date of transposition of Directive (EU) 2019/879 (or, should the equivalent provision set forth in Art. 27(3)(h) SRMR be applicable, on 28 December 2020)	Art. 27(3)(h)	Banks should be able to isolate these liabilities in their MIS (per relevant jurisdictions and applicable national insolvency laws). Banks should assess the associated NCWO risk.
Art. 44a	Selling of subordinated eligible liabilities to retail clients		It may only apply to liabilities issued as from 28 December 2020. Member States have different options to transpose this article.
Art. 46, 47	“Eligible liabilities” replaced by “bail-inable liabilities”		

<sup>71</sup> Note that the definition of “debt instruments” provided for in Art. 2(1)(48) BRRD was introduced by means of Directive (EU) 2017/2399 (rather than by means of Directive (EU) 2019/879).

BRRD	Summary of selected changes (See the mentioned articles for further details)	SRMR-equivalent article	Possible impacts on bail-in playbooks
Art. 48(1)(e) (Change in bold)	if, and only if, the total reduction of shares or other instruments of ownership, relevant capital instruments and <b>bail-inable liabilities</b> pursuant to points (a) to (d) of this paragraph is less than the sum of the amounts referred to in points (b) and (c) of Art. 47(3), authorities reduce to the extent required the principal amount of, or outstanding amount payable in respect of, the rest of <b>bail-inable liabilities, including debt instruments referred to in Art. 108(3)</b> , in accordance with the hierarchy of claims in normal insolvency proceedings, including the ranking of deposits provided for in Art. 108, pursuant to Art. 44, in conjunction with the write-down pursuant to points (a) to (d) of this paragraph to produce the sum of the amounts referred to in points (b) and (c) of Art. 47(3).		The amendments made take into account the amended definition of “debt instruments” (BRRD Art. 2(1)(48) – See above) and the amended BRRD Art. 108. Playbooks should comply with the sequence of write-down and conversion, as amended in BRRD Art. 48 (and its transposition in national law).
Art. 48(7)	Treatment of instruments partly recognised as own funds		Playbooks should comply with the sequence of write-down and conversion, as amended in BRRD Art. 48 (and its transposition in national law). A claim resulting from own funds items shall have a lower priority ranking than any claim that does not result from an own funds item. However, to the extent the instrument is only partially recognised as an own funds item, the whole instrument shall be treated as a claim resulting from an own funds item and shall rank lower than any claim that does not result from an own funds item.
Art. 55	Contractual recognition of bail-in		Compliance with these provisions to be analysed by banks when assessing to what extent liabilities governed by the law of a third country can be effectively subjected to the write-down and conversion powers. The EBA was mandated to develop draft Implementing Technical Standards (ITS) and Regulatory Technical Standards (RTS) for submission to the European Commission. The EBA is expected to deliver its proposal by December 2020.
Chapter V (Change in bold)	[Title] Write-down <b>or conversion</b> of capital instruments <b>and eligible liabilities</b>	Art. 21	The write-down and conversion power is extended to eligible liabilities, as defined in BRRD Art. 2(1)(71a) → write-down and conversion of capital instruments and eligible liabilities.
Art. 59(1) (Change in bold)	The power to write-down or convert relevant capital instruments <b>and eligible liabilities</b> may be exercised either: (...) (b) in combination with a resolution action, where the conditions for resolution specified in Art. 32, <b>32(a) or 33</b> are met. [32(a): resolution with regard to a central body]		
Art. 59(1)	Treatment of instruments purchased by the resolution entity indirectly through other entities in the same resolution group		This amendment should be analysed by banks as part of the loss transfer mechanism analysis.

BRRD	Summary of selected changes (See the mentioned articles for further details)	SRMR-equivalent article	Possible impacts on bail-in playbooks
Art. 59(1)	After the exercise of the power to write-down or convert relevant capital instruments and eligible liabilities independently of a resolution action, Valuation 3 shall be carried out (Art. 74) and compensation shall be provided if need be (Art. 75)		
Art. 59(1a )	Description of eligible liabilities that can be subjected to the power of write-down or conversion independently of a resolution action		Banks should be able to isolate the liabilities referred to in BRRD Art. 59(1a) in their MIS.
Art. 59(1b)	Resolution action at (resolution) entity level		
Art. 60 (Change in bold)	[Title] Provisions <b>concerning</b> the write-down or conversion of <b>relevant</b> capital instruments <b>and eligible liabilities</b> Addition of eligible liabilities referred to in Art. 59(1a) in the priority of claims (60(1)(d)) and in Art. 60(3)(d)		
Art. 61(3)	Authorities responsible for eligible liabilities referred to in Art. 59(1a)		
Art. 62(1)	Redrafted. 24 hours delay to notify the consolidating supervisor and the relevant resolution authorities of group entities		

CRR	Summary of selected changes (See the mentioned articles for further details)
Art. 72a	Eligible liabilities items
Art. 92a	Requirements for own funds and eligible liabilities for G-SIIs shall not apply, <i>inter alia</i> , within the two years following the date on which the resolution authority has applied the bail-in tool in accordance with BRRD
Art. 518a	<p>Review of cross-default provisions</p> <p>By 28 June 2022, the Commission shall review and assess whether it is appropriate to require that eligible liabilities may be bailed-in without triggering cross-default clauses in other contracts, with a view to reinforcing as much as possible the effectiveness of the bail-in tool and to assessing whether a no-cross-default provision referring to eligible liabilities should be included in the terms or contracts governing other liabilities. Where appropriate, that review and assessment shall be accompanied by a legislative proposal</p>



## ANNEX 2 – GLOSSARY<sup>72</sup>

Admission to trading	The decision for a financial instrument to be traded in an organised way, notably on the systems of a trading venue. <sup>73</sup>
Beneficial owner	Entity that enjoys the possession and/or benefits of ownership (such as receipt of income) of a property even though its ownership (title) is in the name of another entity (called a 'nominee' or 'registered owner'). Use of a nominee (who may be an agent, custodian, or a trustee) does not change the position regarding tax reporting and tax liability, and the beneficial owner remains responsible. Also called actual owner.
Book-entry transaction	In the field of securities, it refers to a transaction which is processed without the movement of physical certificates, being effected instead by means of credit and debit entries. <sup>74</sup>
Central counterparty (CCP)	An entity that places itself, in one or more markets, between the counterparties to the contracts traded, becoming the buyer to every seller and the seller to every buyer and thereby guaranteeing the performance of open contracts. <sup>75</sup>
Central Securities Depository (CSD)	An entity that 1) enables securities transactions to be processed and settled by book entry, 2) provides custodial services (e.g. the administration of corporate actions and redemptions), and 3) plays an active role in ensuring the integrity of securities issues. <sup>76</sup>
Classical global note (CGN)	A form of global certificate which requires physical annotation on the attached schedule to reflect changes in the issue outstanding amount. <sup>77</sup>
Clearing	The process of transmitting, reconciling and, in some cases, confirming transfer orders prior to settlement, potentially including the netting of orders and the establishment of final positions for settlement. Sometimes this term is used (imprecisely) to cover settlement. For the clearing of futures and options, this term refers to the daily balancing of profits and losses and the daily calculation of collateral requirements. <sup>78</sup>
Conversion agent or Exchange agent	An agent appointed by the Issuer to instruct the execution of conversion or exchanges of securities. <sup>79</sup>
Common depository	An entity appointed by the ICSDs (Euroclear Bank and Clearstream Banking Luxembourg) to provide safekeeping and asset servicing for securities in Classical Global Note form. <sup>80</sup>
Common safekeeper	An entity appointed by the ICSDs (Euroclear Bank and Clearstream Banking Luxembourg) to provide safekeeping for New Global Notes. Note that the Common Safekeeper will be either Euroclear Bank or Clearstream Banking Luxembourg if the security is ESCB eligible, or the entity acting as Common Service Provider if it is not. <sup>81</sup>

<sup>72</sup> Various sources, including online resources.

<sup>73</sup> European Commission's Glossary of useful terms linked to markets in financial instruments under [https://ec.europa.eu/info/sites/info/files/glossary\\_en\\_1.pdf](https://ec.europa.eu/info/sites/info/files/glossary_en_1.pdf)

<sup>74</sup> ECB, [Payments and markets glossary](#) (including terms related to Financial Market Infrastructures from the Glossary of terms related to payment, clearing and settlement systems, December 2009).

<sup>75</sup> ECB, *Ibid.*

<sup>76</sup> ECB, *Ibid.*

<sup>77</sup> ECB, *Ibid.*

<sup>78</sup> ECB, *Ibid.*

<sup>79</sup> ECB, *Ibid.*

<sup>80</sup> Euroclear, Clearstream, *Ibid.*

<sup>81</sup> Euroclear, Clearstream, *Ibid.*

Common service provider	An entity appointed by the ICSDs (Euroclear Bank and Clearstream Banking Luxembourg) to provide asset servicing for New Global Notes. <sup>82</sup>
Corporate action	An action or event decided by the issuer of a security which has an impact on the holders of that security. This may be optional, in which case those holders have a choice (for example, they may have the right to purchase more shares, subject to conditions specified by the issuer). Alternatively, it may be mandatory, whereby those holders have no choice (e.g. in the case of a dividend payment or stock split). Corporate actions can relate to cash payments (e.g. dividends or bonuses) or the registration of rights (subscription rights, partial rights, splits, mergers, etc.). <sup>83</sup>
CUSIP	Committee on Uniform Security Identification Procedures. Refers to the nine-character alphanumeric CUSIP code which identifies any North American security for the purposes of facilitating clearing and settlement of trades.
Custodian	An entity, often a credit institution, which provides securities custody services to its customers. <sup>84</sup> A number of different actors provide custody services in different roles: the investor's main custodian (e.g. house bank), the sub-custody network and the CSDs. It should be noted that it is for the investor to choose the main custodian to hold the assets.
Delisting	See listing.
Depository	An agent with the primary role of recording (direct or indirect) holdings of securities. A depository may also act as a registrar. <sup>85</sup> The depository may be a CSD, or a different entity (such as a custodian bank).
Exchange agent	An agent appointed by the Issuer to instruct the execution of conversion or exchanges of securities (also called conversion agent).
Global certificate or Global note	Certificate representing an entire issue of securities. These may be temporary global certificates or permanent global certificates and in classical global note or new global note form. <sup>86</sup>
Interim instrument	A security (usually of a type related to equity) that is issued for the purposes of allowing a conversion from bail-inable liabilities into that instrument, as a first step in the bail-in process. The interim instrument is meant to be converted after final valuation into a definitive instrument, most likely equity.
International Central Securities Depository (ICSD)	A CSD which was originally set up to settle Eurobond trades and is now active in the settlement of internationally traded securities from various domestic markets, typically across currency areas. At present, there are two ICSDs located in the EU: Clearstream Banking in Luxembourg and Euroclear Bank in Belgium.
ISIN	The International Securities Identification Number (ISIN, ISO 6166) is the recognized global standard for unique identification of financial instruments. ISINs are used to identify most types of financial instruments, including equity, debt and derivatives.
Issuer	Legal entity that issues/sells securities to finance its operations. Issuers may be corporations, investment trusts, or domestic or foreign governments. Issuers are legally responsible for the obligations of the issue and for reporting financial conditions, material developments and any other operational activities as required by the regulations of their jurisdictions.
Issuing agent	Legal entity assisting the issuer in its relation with the CSD, for the purposes of issuing the securities: it creates the ISIN in the system through the initial deposit to create the security.

<sup>82</sup> Euroclear, Clearstream, Ibid.

<sup>83</sup> ECB, Ibid.

<sup>84</sup> ECB, Ibid.

<sup>85</sup> ECB, Ibid.

<sup>86</sup> Euroclear, Clearstream, Ibid.



Listing	The admission to trading of a financial instrument on an exchange. (In some cases, <i>e.g.</i> when the exchange does not offer trading facilities in a given jurisdiction, listing can take place without trading being possible on the exchange's trading platform). Delisting thus refers to the removal of the instrument from trading.
Listing agent	Legal entity assisting the issuer with the application for admission (with a view to having the issuer's securities listed and admitted to trading on a regulated market/stock exchange).
Market operator	A firm responsible for setting up and maintaining a trading venue such a regulated market or a multi lateral trading facility. <sup>87</sup>
National Numbering Agency (NNA)	The organisation in each country responsible for issuing International Securities Identification Numbers (ISIN) as described by the ISO 6166 standard and the Classification of Financial Instruments code as described by the ISO 10962 standard. The role of National Numbering Agency is typically assigned to the national stock exchange, CSD, central bank, or financial regulator.
New global note	A form of global certificate which refers to the records of the ICSDs to determine the issue outstanding amount. <sup>88</sup>
Operational agent	Any entity that acts on behalf and upon request of the Issuer and supporting the issuer throughout the lifecycle of the securities issued by the issuer. Operational agents are involved in the issuance of securities, the preparation and performance of corporate actions, conversions, etc.
OTC (over-the-counter) trading	A method of trading that does not involve a regulated market. In over-the-counter markets, participants trade directly with each other, typically through telephone or computer links. <sup>89</sup>
Paying agent	An agent appointed by the Issuer to process the cash payments to be made by the Issuer (collection of coupon, redemption or other monies) related to a security. <sup>90</sup>
Regulated market	A regulated market is a multilateral system, defined by MiFID (Article 4), which brings together or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments in a way that results in a contract. Examples: the traditional stock exchanges such as the Frankfurt and London Stock Exchanges. <sup>91</sup>
Suspension of trading	A temporary halt in the trading of a particular financial instrument as a consequence of a regulatory intervention or an intervention by the exchange operator, following serious concerns about the relevant company's assets, operations, or any other financial information. In addition, MiFID foresees the possibility to suspend for market abuse reasons (Article 52). Trading halts may also follow excessive movements in the market value of the instrument; under MIFID, these are treated more as mechanisms to manage volatility rather than suspensions. Usually, the issuer may also ask for a trading halt in advance of important announcements.
Trading venue	A trading venue is either a regulated market (a stock exchange), a multilateral trading facility (MTF, <i>i.e.</i> a multilateral trading system operated by an investment firm or a market operator), or an organised trading facility ( <i>i.e.</i> a multilateral system which is not a regulated market or an MTF).

<sup>87</sup> European Commission, *Ibid.*

<sup>88</sup> Euroclear, Clearstream, *Ibid.*

<sup>89</sup> ECB, *Ibid.*

<sup>90</sup> Euroclear, Clearstream, *Ibid.*

<sup>91</sup> European Commission, *Ibid.*



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