



**COMMISSION DELEGATED REGULATION (EU) 2024/895**

**of 13 December 2023**

**amending Delegated Regulation (EU) 2015/63 as regards the calculation of eligible liabilities and the transitional regime**

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012 of the European Parliament and of the Council (¹), and in particular Article 103(7) thereof,

Whereas:

- (1) Directive (EU) 2019/879 of the European Parliament and of the Council (²) amended the definition of 'eligible liabilities', as then laid down in Article 2(1), point (71), of Directive 2014/59/EU. Pursuant to that new definition, 'eligible liabilities' are only those liabilities that are eligible for the minimum requirement for own funds and eligible liabilities (MREL). That amendment should be reflected in Commission Delegated Regulation (EU) 2015/63 (³), which deals with *ex ante* contributions to resolution financing arrangements. More in particular, the references in that Delegated Act to the previous definition of 'eligible liabilities', which was laid down in Article 2(1), point (71) of Directive 2014/59/EU, should be adjusted to Article 2(1), point (71a), of that Directive, in which the new definition is laid down. Furthermore, the formula for the calculation of the indicator 'Own funds and eligible liabilities held by the institution in excess of MREL' in Annex I, STEP I of Delegated Regulation (EU) 2015/63 should also be adjusted to include only liabilities eligible for MREL.
- (2) Directive (EU) 2019/879 also amended Article 45(1) and (2) of Directive 2014/59/EU to provide for a new calculation of MREL, according to which the MREL is now calculated as a percentage of both the total risk exposure amount (TREA) and as a percentage of the total exposure measure (TEM) of the entity concerned. It should therefore be specified on the basis of which parameter the indicator 'Own funds and eligible liabilities held by the institution in excess of MREL' referred to in Delegated Regulation (EU) 2015/63 should be calculated. Furthermore, to ensure a sufficiently prudent value of that indicator, it should be laid down that for the calculation of that indicator the higher value of MREL between, on the one hand, MREL calculated according to TREA and, on the other hand, MREL calculated according to TEM, should be used.
- (3) Directive (EU) 2019/879 also extended the possibility of resolution authorities to waive individual entities from the MREL at solo level and to instead require MREL at consolidated level, and in particular to the circumstances referred to in Article 45f(3) and (4) and Article 45g of Directive 2014/59/EU. That amendment of Directive 2014/59/EU should be reflected in Article 8(2) of Delegated Regulation (EU) 2015/63.
- (4) Article 20(5) of Delegated Regulation (EU) 2015/63 currently provides for a transitional regime allowing smaller institutions to contribute to national resolution financing arrangements or to the Single Resolution Fund with a lump sum, rather than with a fully-fledged risk adjusted contribution. That transitional regime runs until the end of the initial period provided for reaching the target level of the Single Resolution Fund, which pursuant to Article 69 of

(¹) OJ L 173, 12.6.2014, p. 190.

(²) Directive (EU) 2019/879 of the European Parliament and of the Council of 20 May 2019 amending Directive 2014/59/EU as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms and Directive 98/26/EC (OJ L 150, 7.6.2019, p. 296).

(³) Commission Delegated Regulation (EU) 2015/63 of 21 October 2014 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to *ex ante* contributions to resolution financing arrangements (OJ L 11, 17.1.2015, p. 44).

Regulation (EU) No 806/2014 of the European Parliament and of the Council (<sup>4</sup>) ends on 31 December 2023. However, pursuant to Article 102(1) of Directive 2014/59/EU, the initial period for reaching the target level of the national resolution financing arrangements ends a year later, on 31 December 2024. That situation creates an unequal treatment between institutions contributing to national resolution financing arrangements and institutions contributing to the Single Resolution Fund. To enable also institutions contributing to national resolution financing arrangements to contribute with a lump-sum until the end of the initial period of their respective national resolution financing arrangement, the transitional regime should be extended for one year until 31 December 2024 by replacing the reference in Article 20(5) of Delegated Regulation (EU) 2015/63 to Article 69(1) of Regulation (EU) No 806/2014 with a reference to Article 102(1) of Directive 2014/59/EU.

- (5) Delegated Regulation (EU) 2015/63 should therefore be amended accordingly.
- (6) It is necessary to provide resolution authorities with sufficient time to adopt and notify their decisions on contributions to resolution financing arrangements in line with the amended requirements. It is therefore necessary to provide for a transitional arrangement for the year 2024 extending the deadlines for such notifications.
- (7) Since the resolution authorities need to apply the amended requirements to calculate and raise the contributions for 2024 as soon as possible, it is necessary to provide for the entry into force of this Regulation the day following its publication.
- (8) Under Article 14(4) of Delegated Regulation (EU) 2015/63, institutions are to provide resolution authorities with the information that is relevant for the calculation of the contributions by 31 January each year. It is necessary to give institutions one more month to provide that information in 2024.
- (9) It is necessary to avoid legal uncertainty about the method to be applied for the information reporting and the calculation of contributions to national resolution financing arrangements. For that reason, resolution authorities should be able to instruct institutions on the information to be provided for the calculation of their annual contributions, taking into account the extension of the transitional lump-sum regime in 2024, well in advance of the established deadline for the collection of the contributions in 2024. To ensure continuity of information reporting and of the calculation method throughout contribution periods, and to enable resolution authorities to issue the necessary instructions from 1 December 2023, the extension of the transitional regime to be laid down in Article 20(5), (8) and (9) should apply retroactively from that date,

HAS ADOPTED THIS REGULATION:

## Article 1

### Amendments to Delegated Regulation (EU) 2015/63

Delegated Regulation (EU) 2015/63 is amended as follows:

- (1) in Article 3, point (17) is replaced by the following:

‘(17) “eligible liabilities” means eligible liabilities as defined in Article 2(1), point (71a), of Directive 2014/59/EU;’;
- (2) in Article 8, paragraph 2 is replaced by the following:

‘2. Where the competent authority has fully waived the application of capital requirements to an institution at individual level pursuant to Article 7(1) of Regulation (EU) No 575/2013 and the resolution authority has also fully waived the application at individual level to the same institution of the MREL in accordance with Article 45f(3) or (4), or with Article 45g of Directive 2014/59/EU, the indicator referred to in Article 6(2), point (a), of this Regulation may be calculated at consolidated level. The score obtained by that indicator at consolidated level shall be attributed to each institution which is part of the group for calculating that institution’s risk indicator.’;

<sup>(4)</sup> Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.7.2014, p. 1).

(3) in Article 20, paragraph 5 is replaced by the following:

'5. Without prejudice to Article 10 of this Regulation, during the initial period referred to in Article 102(1) of Directive 2014/59/EU, Member States may allow institutions whose total assets are equal to or less than EUR 3 000 000 000 to pay a lump-sum of EUR 50 000 for the first EUR 300 000 000 of total liabilities, less own funds and covered deposits. For the total liabilities less own funds and covered deposits above EUR 300 000 000, those institutions shall contribute in accordance with Articles 4 to 9 of this Regulation.';

(4) in Article 20, the following paragraphs 8 and 9 are added:

'8. By way of derogation from Article 13(1), in the 2024 contribution period the resolution authorities shall notify each institution referred to in Article 2 of their decisions determining the annual contribution due by each institution by 31 May 2024.

9. By way of derogation from Article 14(4), and with regard to the information to be provided to the resolution authority in 2023, the information referred to in that paragraph shall be provided at the latest by 29 February 2024.';

(5) Annex I is amended in accordance with the Annex to this Regulation.

## Article 2

### **Entry into force and application**

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

It shall apply from the day following that of its publication, with the exception of Article 1(3) and (4), which shall apply from 1 December 2023.

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

Done at Brussels, 13 December 2023.

*For the Commission*

*The President*

Ursula VON DER LEYEN

## ANNEX

## 'ANNEX I

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

## STEP 1

**Calculation of the Raw Indicators**

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

Pillar	Indicator	Measures
Risk exposure	Own funds and eligible liabilities held by the institution in excess of MREL	$\left( \frac{\text{Own funds and eligible liabilities} - \text{MREL}}{\text{Total liabilities including own funds}} \right)$ <p>Where, for the purpose of this indicator:</p> <p>Own funds shall mean the sum of Tier 1 and Tier 2 Capital in accordance with the definition in Article 4(1), point (118), of Regulation (EU) No 575/2013.</p> <p>Eligible liabilities are the sum of the liabilities referred to in Article 2(1), point (71a), of Directive 2014/59/EU.</p> <p>Total liabilities mean total liabilities as defined in Article 3(11) of this Regulation. Derivative liabilities shall be included in the total liabilities on the basis that full recognition is given to counterparty netting rights.</p> <p>MREL shall mean the minimum requirement for own funds and eligible liabilities as defined in Article 45(1) of Directive 2014/59/EU.</p> <p>This indicator shall be calculated using the higher value of MREL choosing between the MREL value calculated on the basis of a percentage of the total risk exposure amount of the entity concerned pursuant to Article 45(2), point (a), of Directive 2014/59/EU, and the MREL value calculated on the basis of a percentage of the total exposure measure of the entity concerned pursuant to Article 45(2), point (b), of Directive 2014/59/EU.</p>
Risk exposure	Leverage Ratio	Leverage Ratio as defined in Article 429 of Regulation (EU) No 575/2013 and reported in accordance with Annex X to Implementing Regulation (EU) No 680/2014.
Risk exposure	Common Equity Tier 1 Capital Ratio	Common Equity Tier 1 Capital Ratio as defined in Article 92 of Regulation (EU) No 575/2013 and reported in accordance with Annex I to Implementing Regulation (EU) No 680/2014.
Risk exposure	TRE/Total Assets	$\left( \frac{\text{TRE}}{\text{Total assets}} \right)$ <p>where:</p> <p>TRE means the total risk exposure amount as defined in Article 92(3) of Regulation (EU) No 575/2013.</p> <p>Total assets are defined in Article 3(12) of this Regulation.</p>

Stability and Variety of Funding	Net Stable Funding Ratio	Net Stable Funding Ratio as reported in accordance with Article 415 of Regulation (EU) No 575/2013.
Stability and Variety of Funding	Liquidity Coverage Ratio	Liquidity Coverage Ratio as reported in accordance with Article 415 of Regulation (EU) No 575/2013 and with the Delegated Regulation (EU) 2015/61.
Importance of an institution to the stability of the financial system or economy	Share of interbank loans and deposits in the EU	$\left( \frac{\text{Interbank loans} + \text{Interbank deposits}}{\text{Total interbank loans and deposits in the EU}} \right)$ <p>where:</p> <p>Interbank loans are defined as the sum of the carrying amounts of loans and advances to credit institutions and other financial corporations as determined for the purpose of template number 4.1, 4.2, 4.3 and 4.4 of Annex III to Implementing Regulation (EU) No 680/2014.</p> <p>Interbank deposits are defined as the carrying amount of the deposits of credit institutions and other financial corporations as determined for the purpose of template number 8.1 of Annex III to Implementing Regulation (EU) No 680/2014.</p> <p>Total interbank loans and deposits in the EU are the sum of the aggregate interbank loans and deposits held by institutions in each Member State as calculated in accordance with Article 15.'</p>