

# Single Rulebook Q&A

<b>Question ID</b>	2020_5644
<b>Status</b>	Final Q&A
<b>Legal act</b>	Directive 2014/59/EU (BRRD)
<b>Topic</b>	MREL
<b>Article</b>	45f
<b>Paragraph</b>	3, 4(d)
<b>Subparagraph</b>	-
<b>COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations</b>	Not applicable
<b>Article/Paragraph</b>	Not applicable
<b>Date of submission</b>	07/12/2020
<b>Published as Final Q&amp;A</b>	29/07/2022
<b>Disclose name of institution / entity</b>	No
<b>Type of submitter</b>	Resolution authority
<b>Subject matter</b>	Guarantee for the purpose of the waiver from internal MREL requirements
<b>Question</b>	What amount of the “commitments” referred to in Articles 45f(3) and 45f(4), point (d), BRRD should be covered by the guarantee of the resolution entity or the parent undertaking?
<b>Background on the question</b>	Articles 45f(3) and 45f(4), point (d), BRRD list, among the conditions for the granting of a waiver from internal MREL requirements, the parent or resolution entity having “ declared (...) that it guarantees the commitments entered into by the subsidiary”. On 23rd October we have submitted a question and proposed an answer in relation to these articles which we would like to complement as we came across additional questions and issues in the process of the assessment of individual MREL waivers. One of the aspects of the question submitted relates to the amount of the guarantee and the person benefitting from the guarantee. In our proposed answer, we proposed that the amount of the guarantee be at least equal to the hypothetical MREL requirement, referring to the similar approach taken by the SRB in its MREL policy. We also proposed that a guarantee in favor of the subsidiary is accepted as fulfilling the condition of the Directive, as this is accepted in practice for the SSM capital and liquidity waivers. We note that this wording is identical to this of Article 7 (1) (b) CRR. However, there

	<p>is no indication in any of those legal texts as to the amount of the guarantee and the nature of the guarantee. The objective of the guarantee, together with the other conditions, is to make sure that a subsidiary subject to iMREL benefit from a strong guarantee from the parent at least up to the iMREL hypothetical target so that an equivalent financial support in terms of amount is offered to the subsidiary. The complementary question considers that we admit that it is reasonable to limit the amount of the guarantee to at least the hypothetical MREL requirement.</p>
<p><b>Final answer</b></p>	<p>Point (d) of Article 45f(3) BRRD requires that the resolution entity ‘declare’, with the consent of the competent authority, that it guarantees the commitments entered into by the subsidiary. Point (d) of Article 45f(4) provides for a corresponding requirement in case of parent undertakings and subsidiaries established in the same Member State and being part of the same resolution group.</p> <p>Those provisions do not specify the type of commitments entered into by the subsidiary that need to be covered by the declaration of the resolution entity (or the parent undertaking) in order to fulfill the condition under point (d). The provisions leave open the nature and content of the declaration of the resolution entity (or the parent undertaking) and the associated guarantee(s).</p> <p>Please refer to the response to <a href="#">Q&amp;A 5581</a> for further guidance regarding the assessment of ‘commitments’ referred to in the above provisions.</p> <p>Disclaimer:</p> <p>The answers clarify provisions already contained in the applicable legislation. They do not extend in any way the rights and obligations deriving from such legislation nor do they introduce any additional requirements for the concerned operators and competent authorities. The answers are merely intended to assist natural or legal persons, including competent authorities and Union institutions and bodies in clarifying the application or implementation of the relevant legal provisions. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law. The views expressed in the internal Commission Decision cannot prejudge the position that the European Commission might take before the Union and national courts.</p>
<p><b>Link</b></p>	<p><a href="https://www.eba.europa.eu/single-rule-book-qa/qna/view/publicId/2020_5644">https://www.eba.europa.eu/single-rule-book-qa/qna/view/publicId/2020_5644</a></p>

