

Single Rulebook Q&A

Question ID	2015_2184
Status	Final Q&A
Legal act	Directive 2014/59/EU (BRRD)
Topic	Special management
Article	35
Paragraph	-
Subparagraph	-
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Not applicable
Article/Paragraph	n.a.
Date of submission	29/07/2015
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Disclose name of institution / entity	No
Type of submitter	Competent authority
Subject matter	Liability in the context of special management
Question	In the case of special management, is the resolution authority liable for the acts of the special manager that the former had appointed and / or is the appointed special manager directly liable for their acts?
Background on the question	Article 35 of Directive 2014/59/EU (BRRD), dealing with the topic of special management, is not clear on the potential liability in the context of special management, e.g. if the resolution authority is liable for the acts of the special manager it appointed and / or whether the appointed special manager direct liable for his/her acts.
Final answer	<p>Articles 40(11) and 42(12) of Directive 2014/59/EU (BRRD) respectively shield the bridge institution's and asset management vehicle's management body or senior management from liability toward the shareholders or creditors of the institution under resolution and other third parties whose assets, rights or liabilities are not transferred to the bridge institution or asset management vehicle.</p> <p>Besides the above, no other specific aspect of the liability regime of the resolution authority and the special manager appointed under Article 35 is</p>

governed by the BRRD. Thus, such liability regime is a matter of national law, which depends inter alia on the terms of the appointment.

To that purpose, Article 72(4) BRRD expressly excludes that, under national law, the resolution authority may be deemed to be shadow director or de facto director.

Disclaimer:

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 prejudice the position that the European Commission might take before the Union and national courts.

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