

Single Rulebook Q&A

Question ID	2015_2341
Status	Final Q&A
Legal act	Directive 2014/59/EU (BRRD)
Topic	Resolution tools and powers
Article	40, 41, 43
Paragraph	2, 1, 2
Subparagraph	-
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Not applicable
Article/Paragraph	n.a.
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Disclose name of institution / entity	No
Type of submitter	Competent authority
Subject matter	Wholly or partially owned by a public authority requirement and bail-in
Question	Article 40 of Directive 2014/59/EU (BRRD) requires that the bridge institution is wholly or partially owned by public authorities (including the resolution fund) and that it is controlled by the resolution authority. How is this ownership requirement compatible with Article 43(2)(b)(ii) BRRD?
Background on the question	The Bail in rules make no reference to this.
Final answer	Article 40(2), second subparagraph and Article 43(2)(b)(i) BRRD should not be regarded as in friction with each other. The second subparagraph of Article 40(2) does not amount to a mitigation of the ownership requirement: even if the shareholders and creditors of the institution under resolution were abstractly able to absorb losses and it was feasible to capitalize the bridge institution through bail-in pursuant to Article 43(2)(b)(i) BRRD, this would not undermine the requirement that the bridge institution is at least partially owned by the resolution authority. The provision in question merely specifies that, when the bridge institution is only partially publicly owned, the public authority must retain control. As to the meaning of 'control', it should be understood as comprising at least the powers listed under Article

	<p>41(1)(a), (b), (c), (d) and (g) BRRD.</p> <p>If, further to the application of the bail-in tool, the bridge institution ceases to be at least partially publicly owned, depending on the circumstances, it may lose the status of bridge institution or it may remain under public control for a longer period.</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 prejudice the position that the European Commission might take before the Union and national courts.</p>
<p>Link</p>	<p>https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2015_2341</p>

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