

Question ID	2015_2521
Status	Final Q&A
Legal act	Directive 2014/59/EU (BRRD)
Topic	Resolution tools and powers
Article	34, 44
Paragraph	1, 9
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	References to shareholders in Article 34 (and 44)
Question	Are holders of Common Equity Tier 1 (CET1) only to be considered shareholders?
Background on the question	Both, Articles 34 and 44 of Directive 2014/59/EU (BRRD) refer to "shareholders". It is however not clear whether there is an error in the reference to "shareholders", as only holders of Common Equity Tier 1 (CET1) that take first losses. Other shareholders are holders of "eligible liabilities", which take losses after Additional Tier 1 and Tier 2 instruments have been realised. Both of these articles (34 and 44) are "principles", but this is quite a significant inaccuracy which warrants clarification. Should it be corrected?
Final answer	<p>The BRRD defines 'shareholders' as 'shareholders or holders of other instruments of ownership' (Article 2(1)(62) BRRD), and not just as holders of CET1 instruments.</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</p>

	<p>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>
Link	<p>https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2015_2521</p>

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