

Question ID	2016_2583
Status	Final Q&A
Legal act	Directive 2014/59/EU (BRRD)
Topic	Valuation
Article	36
Paragraph	4
Subparagraph	a-c
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	Use of valuation to apply resolution tools and to initiate resolution
Question	Why is valuation part of the decision on application of resolution tools instead of the decision initiating resolution?
Background on the question	Article 36(4)(a) of Directive 2014/59/EU (BRRD) provides that the purposes of the valuation shall be: (a) to inform the determination of whether the conditions for resolution or the conditions for the write down or conversion of capital instruments are met; Article 36(13) provides that the valuation shall be an integral part of the decision to apply a resolution tool or exercise a resolution power, or the decision to exercise the write down or conversion power of capital instruments. The valuation itself shall not be subject to a separate right of appeal but may be subject to an appeal together with the decision in accordance with Article 85.
Final answer	Articles 36(4)(a) - (c) of Directive 2014/59/EU (BRRD) state that the purpose of the valuation (amongst others) is to (a) inform the determination of whether the conditions for resolution or write down or conversion of capital instruments and eligible liabilities in accordance with Article 59(1) BRRD are met; (b) if the conditions for resolution are met, to inform the appropriate resolution action to be taken; and (c) when the power to write down or

convert relevant capital instruments and eligible liabilities in accordance with Article 59(1) BRRD is applied, to inform the decision on the extent of the cancellation or dilution of shares or other instruments of ownership, and on the extent of the write down or conversion. Valuation is therefore relevant to the choice of resolution tool and for determining whether the conditions for initiating resolution have been met.

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.

Link

https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2016_2583

European Banking Authority, 11/08/2022
www.eba.europa.eu