

Question ID	2016_2619
Status	Final Q&A
Legal act	Directive 2014/59/EU (BRRD)
Topic	Other topics
Article	2
Paragraph	1
Subparagraph	47
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	Special resolution regimes for credit institutions not covered by the Directive / partly resolved via insolvency
Question	Does Directive 2014/59/EU (BRRD) prevent Member State to adopt special resolution regimes (including, e.g., bail-in) for credit institutions (i) that are not covered by the Directive; or (ii) in scope of the BRRD, whose preferred strategy is liquidation under national insolvency proceedings?
Background on the question	Article 1 of BRRD describes the subject matter and scope of BRRD. Article 1(2) of BRRD provides that Member States may adopt or maintain rules that are stricter or additional to those laid down in BRRD and secondary legislation provided that such rules do not conflict with the BRRD framework.
Final answer	<p>Member States are not prevented from setting up special resolution regimes, whether identical to or different than the BRRD regime, applicable to credit institutions that are not included in the scope of BRRD.</p> <p>As to the second sub-question, Member States must comply with Article 1(2) BRRD when devising their national insolvency regimes, under which institutions that are in scope of BRRD, deemed as failing or likely to fail, but</p>

whose resolution would not be in the public interest, will be liquidated.

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 prejudge 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_2619

European Banking Authority, 22/05/2022
www.eba.europa.eu