

<b>Question ID</b>	2016_2622
<b>Status</b>	Final Q&A
<b>Legal act</b>	Directive 2014/59/EU (BRRD)
<b>Topic</b>	Resolution objectives and triggers
<b>Article</b>	32
<b>Paragraph</b>	4
<b>Subparagraph</b>	d(ii)
<b>COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations</b>	Not applicable
<b>Article/Paragraph</b>	n.a.
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<b>Disclose name of institution / entity</b>	No
<b>Type of submitter</b>	Competent authority
<b>Subject matter</b>	State guarantee of newly issued liabilities
<b>Question</b>	Should liabilities issued under Article 32(4)(d)(ii) of Directive 2014/59/EU (BRRD) meet the criteria of Additional Tier 1 or Tier 2 instruments?
<b>Background on the question</b>	Article 32(4)(d) of BRRD defines the conditions under which the granting of public financial support to institutions should not trigger resolution and the forms that such public support should take. One such form of public financial support is when a Member State guarantees the newly issued liabilities of an institution (Article 32(4)(d)(iii)).
<b>Final answer</b>	<p>As concerns liabilities referred to in Article 32(4)(d)(ii) BRRD, no additional condition, beyond what is mentioned in the 2nd subparagraph of Article 32(4) BRRD, is provided.</p> <p>However, the support referred to thereunder must comply with the Union State Aid framework. In particular, the Communication from the Commission on the application, from 1 August 2013, of State aid rules to support measures in favour of banks in the context of the financial crisis (Banking-</p>

Communication - 2013/C 216/01)) currently provides that guarantees may only be granted for new issues of credit institutions' senior debt (subordinated debt is excluded), and on debt instruments with maturities from three months to five years (or a maximum of seven years in the case of covered bonds).

**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**

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