

Single Rulebook Q&A

Question ID	2016_2869
Status	Final Q&A
Legal act	Directive 2014/59/EU (BRRD)
Topic	Resolution financing arrangements
Article	103
Paragraph	-
Subparagraph	-
COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations	Delegated Regulation (EU) 2015/63 - DR on ex ante contributions to resolution financing arrangements
Article/Paragraph	3(11)
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Disclose name of institution / entity	No
Type of submitter	Credit institution
Subject matter	Definition of "total liabilities"
Question	Does the reference to 'total liabilities' in Article 3(11) of Commission Delegated Regulation (EU) 2015/63 mean liabilities and capital, or only liabilities?
Background on the question	Article 3(11) of Commission Delegated Regulation (EU) 2015/63 enables to possible interpretation of the concept of 'total liabilities': 1) as defined in Section 3 of Council Directive 86/635/EEC meaning that total liabilities are capital and liabilities 2) as defined in accordance with the IFRS - there is no explicit definition of total liabilities in the IFRS but in the IAS 1.IG6 Total Liabilities include only Current Liabilities and non-current liabilities. Total Equity is separated from liabilities.
Final answer	When referring to 'total liabilities', Article 3(1)(11) of Commission Delegated Regulation (EU) 2015/63 refers to all the liabilities shown on the balance sheet of institutions and investment firms, including equity. If this was not the case, Article 10 of Commission Delegated Regulation (EU) 2015/63 would purposelessly require the exclusion of 'own funds' from institutions' 'total liabilities' when assessing their size.

	<p>This is confirmed as well by the language of Article 103(2) of Directive 2014/59/EU, which requires ex-ante contributions to be calculated pro rata to the amount of institutions' liabilities (excluding own funds) less covered deposits, with respect to the aggregate liabilities (excluding own funds) less covered deposits of all the institutions authorised in the territory of the Member State.</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 prejudge the position that the European Commission might take before the Union and national courts.</p>
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