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Status	Final Q&A
Legal act	Directive 2014/59/EU (BRRD)
Topic	Resolution financing arrangements
Article	103
Paragraph	2
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	12
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Disclose name of institution / entity	No
Type of submitter	Competent authority
Subject matter	Contributions to the financing arrangements from ceased banks
Question	Do institutions that cease to exist or to be supervised in a given year prior to the determination or raising of the annual contributions still have to contribute to the financing arrangements?
Background on the question	Q&A 2015_1925 deals with the question, how the requirement of Article 12 of the Commission Delegated Regulation (EU) 2015/63 to determine a partial contribution calculated during subsequent contributions in the case of newly supervised institutions, institutions that ceased to exist/be supervised, and the institutions that were not existent in time in the reference year for contribution calculation as detailed in Article 14 of the Commission Delegated Regulation (EU) 2015/63 should be applied. The Commission provided the following answer: "Article 12(1) of Commission Delegated Regulation (EU) 2015/63 states that for these institutions, the contribution for the first months will be computed in the subsequent contribution period [Y2 according to the example above]. However, in the subsequent contribution period [Y2] the necessary data [presumably Y0 according to Article 14] might not be available either. In that case, Article 17(1) of Commission Delegated Regulation (EU) 2015/63 can be applied. In order to facilitate the use of estimates, institutions could provide the resolution

authority with data from the budgeted balance sheet (which they have submitted to the competent authority in order to receive a banking licence) for Y1 and with any other relevant data that are not included in the budgeted balance sheet. "We seek clarification for particular instances whereby an institutions license was withdrawn. At that time of the withdrawal of its license the annual contribution was raised, but neither determined nor notified towards the institution. It is our assumption that institutions not legally existing any more or not supervised by the competent authority any more are still liable to contribute to the financing arrangements. If the collection is unsuccessful, this would have an impact on the amount to be raised in the following year.

Final answer

As per Article 12(2) of Commission Delegated Regulation (EU) 2015/63, "*A change of status of an institution, including a small institution, during the contribution period shall not have an effect on the annual contribution to be paid in that particular year*". Thus, an institution whose license is withdrawn in a given year, regardless of whether prior or after the determination of its contributions to the financial arrangements, must contribute thereto.

The above was confirmed by the General Court in its judgment of 20 January 2021 in Case T-758/20, *ABLV v SRB*, whereby it held that "*the withdrawal of a credit institution's licence by the ECB must be considered to be a change of status within the meaning of Article 12(2) of Delegated Regulation 2015/63. Indeed, as the Court of Justice pointed out in paragraph 43 of the judgment of 14 November 2019, State Street Bank International (C 255/18, EU:C:2019: 967), if a resolution authority, such as the SRB, had to take into account the evolution of the legal and financial situation of institutions during the financial year concerned, it would be difficult for it to reliably calculate the ordinary contributions due in the following year and, consequently, to pursue the objective set out in Regulation No 806/2014 of reaching, at the end of the initial period, at least 1% of the amount of covered deposits of all approved institutions in the participating Member States (see paragraphs 60 to 62 above). Therefore, the concept of 'change of status' provided for in Article 12(2) of Delegated Regulation 2015/63 should be understood as including the cessation of activity of an institution as a result of the loss of its licence during the contribution period.*"

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Link	https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2016_2872

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