

Single Rulebook Q&A

Question ID	2016_3016
Status	Final Q&A
Legal act	Directive 2014/59/EU (BRRD)
Topic	Write-down and conversion of capital instruments
Article	60
Paragraph	2
Subparagraph	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	Compensation in Article 60(2)(c)
Question	How should the use of the wording “compensation” in Article 60(2)(c) of Directive 2014/59/EU (BRRD) be interpreted?
Background on the question	According to Article 60 (2) (c) of Directive 2014/59/EU (BRRD), “no compensation is paid to any holder of the relevant capital instruments other than in accordance with paragraph 3”.It not clear what exactly the use of that wording means in this particular context.
Final answer	The word “compensation” in Article 60(2)(c) BRRD should be understood in a broad sense, indicating any sort of remedy or relief awarded to the holder of the affected instrument or liability in recognition of the write-down imposed on them. The provisions prevents written-down capital instrument- or eligible liability-holders from obtaining something in exchange for their written-down capital instrument or eligible liability, unless a partial write-down is performed in combination with a conversion. In the latter case, the only form of relief that capital instrument - or eligible liability -holders are entitled to benefit from is the conversion into Common Equity Tier 1 instruments of the part of their capital instruments or eligible liabilities that has not been written-down.

	<p>The above is without prejudice to the entitlement of the holders of these instruments and liabilities to the difference between the losses they did incur and the (fewer) losses they would have incurred in normal insolvency proceedings, pursuant to the 3rd subparagraph of Article 59(1) and Article 75 BRRD.</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 prejudice the position that the European Commission might take before the Union and national courts.</p>
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