

<b>Question ID</b>	2016_3019
<b>Status</b>	Final Q&A
<b>Legal act</b>	Directive 2014/59/EU (BRRD)
<b>Topic</b>	Write-down and conversion of capital instruments
<b>Article</b>	60
<b>Paragraph</b>	2
<b>Subparagraph</b>	b
<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>	Meaning of “liability” in Article 60(2)(b)
<b>Question</b>	Do liabilities mentioned in Article 60(2)(b) only refer to the potential liabilities for damages of the national resolution authority to the holder of the relevant capital instrument or eligible liabilities as referred to in Article 59 BRRD?
<b>Background on the question</b>	Article 60 (2) (b) of Directive 2014/59/EU (BRRD), states that “Where the principal amount of a relevant capital instrument is written down [...] b) [...] liability for damages that may arise as a result of an appeal challenging the legality of the exercise of the written-down power” remains. It is not completely clear to whom the stated liability refers to, e.g. only to the liability of the national resolution authority to the holder of the capital instrument or to every liability that could exist.
<b>Final answer</b>	The term "liability for damages" in Article 60(2)(b) BRRD refers only to the resolution authority’s liabilities that may rise for any wrongful exercise of the write-down power, recognised in an appeal challenging the legality of such exercise, vis-à-vis the holder of the relevant capital instrument or eligible liability.

	<p><b>Disclaimer:</b></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>
<b>Link</b>	<a href="https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2016_3019">https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2016_3019</a>

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