

<b>Question ID</b>	2017_3116
<b>Status</b>	Final Q&A
<b>Legal act</b>	Directive 2014/59/EU (BRRD)
<b>Topic</b>	Resolution tools and powers
<b>Article</b>	43
<b>Paragraph</b>	4
<b>Subparagraph</b>	-
<b>COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations</b>	Not applicable
<b>Article/Paragraph</b>	n.a.
<b>Date of submission</b>	20/01/2017
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<b>Disclose name of institution / entity</b>	No
<b>Type of submitter</b>	Competent authority
<b>Subject matter</b>	Conversion of eligible liabilities to equity
<b>Question</b>	If it is not possible to convert bail-inable liabilities into equity, since, under the applicable national law, the institution may not have shareholders, would it be possible to recapitalize the institution only by writing-down relevant capital instruments and bail-inable liabilities, without converting any liabilities into equity?
<b>Background on the question</b>	With reference to 1. There are public law institutions that are statutory bodies without having legal owners as such.2. According to Article 43(4) “Member States shall ensure that resolution authorities may apply the bail-in tool [...] while respecting in each case the legal form of the institution or entity concerned or may change the legal form”.
<b>Final answer</b>	If a recapitalization through conversion cannot be achieved due to the specific legal form of the concerned entity, other ways that are both in line with the national applicable law and with Directive 2014/59/EU (BRRD) should be explored in order for resolution authorities to be able to duly apply the bail-in tool. If this cannot be achieved by maintain the entity’s original legal form, Article 43(4) BRRD entitles resolution authorities to change it.

	<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 prejudge 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/2017_3116">https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2017_3116</a>

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