

<b>Question ID</b>	2017_3117
<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>	37
<b>Paragraph</b>	-
<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
<b>Published as Final Q&amp;A</b>	21/01/2022
<b>Disclose name of institution / entity</b>	No
<b>Type of submitter</b>	Competent authority
<b>Subject matter</b>	Purpose of the use of the power to write down and convert capital instruments and eligible liabilities
<b>Question</b>	What is the purpose of the use of the power to write down and convert capital instruments and eligible liabilities in accordance with Article 59 of Directive 2014/59/EU (BRRD), in case of transfer of assets, right or liabilities to the bridge entity or the asset management vehicle or the use of the sale of business tool?
<b>Background on the question</b>	It is not clear from Article 37(2) what the exact purpose of the use of the power to write down and convert capital instruments and eligible liabilities in accordance with Article 59 is meant to be.
<b>Final answer</b>	Irrespective of which resolution tool is applied, resolution action may result in creditors incurring losses or seeing their claims being converted. The purpose of the second paragraph of Article 37 BRRD is to ensure that, before this may occur (i.e., before more senior creditors may incur losses), the holders of capital instruments and, where relevant, eligible liabilities in accordance with Article 59(1) BRRD absorb losses first. Such provision aims to preserve the ranking that different classes of claims would have in insolvency proceedings.

	<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>	<p><a href="https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2017_3117">https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2017_3117</a></p>

European Banking Authority, 28/11/2023  
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