

Single Rulebook Q&A

Question ID	2017_3579
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	5(10)
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Disclose name of institution / entity	No
Type of submitter	Competent authority
Subject matter	Treatment of covered deposits when determining the contribution base of Investment Firms
Question	Can the liabilities that arise by virtue of holding clients' money with investment firms, and that are then deposited by investment firms with a credit institution, be considered as deposits that are deducted from the Contribution Base when determining the ex-ante contribution of those investment firms to a resolution financing arrangement?
Background on the question	According to Article 103(2) Directive 2014/59/EU ("BRRD") the ex-ante contributions of institutions are pro-rata calculated based on the amount of their respective liabilities (excluding own funds) less covered deposits ("Contribution Base"), with respect to aggregate liabilities (excluding own funds) less covered deposits of all the institutions authorised in the territory of a Member State. In many cases, liabilities may arise to investment firms by virtue of holding client money; financial means that are to be used solely for the clients' defined purposes (e.g. for buying / selling securities) or are otherwise connected with investment services for the clients. These financial means are usually recorded by the investment firm on behalf of their clients on a specific bank account(s) / with particular credit institution and such deposits may fall under the definition of covered deposits (from the bank's

	<p>side) referred to in Article 6(1) of Directive 2014/49/EU. Can such liabilities that arise by virtue of holding clients' money with the investment firms be considered as deposits that are deducted from the Contribution Base when determining their ex-ante contribution to resolution financing arrangement in line with the Commission Delegated Regulation (EU) 2015/63 of 21 October 2014 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to ex ante contributions to resolution financing arrangements?</p>
<p>Final answer</p>	<p>Pursuant to Article 5(1)(e) of Commission Delegated Regulation (EU) 2015/63, liabilities that arise by virtue of holding client assets or client money, provided that such a client is protected under the applicable insolvency law, must be excluded from the investment firms' total liabilities for the purpose of calculating the contributions of those investment firms to resolution financing arrangements.</p> <p>For these purposes, it is not relevant whether the investment firm has deposited the client assets or client money with a credit institution on behalf of the clients.</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>
<p>Link</p>	<p>https://www.eba.europa.eu/single-rule-book-qa/-/qna/view/publicId/2017_3579</p>