Chapter 1

Commission Delegated Regulation (EU) 2016/1075

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Preamble

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012 of the European Parliament and of the Council, and in particular Article 5(10), Article 6(8), Articles 10(9), 12(6), 15(4), 23(2), 36(14), 55(3), 82(3) and 88(7) thereof,

01/01/2021

Whereas:

(1) The provisions in this Regulation are closely linked to each other, since they deal with the resolution framework set out by Directive 2014/59/EU from the planning stage of the recovery and resolution of an institution, through the early intervention phase, up until the moment of resolution action. To ensure coherence between those provisions, which should enter into force simultaneously and to facilitate the resolution process, there is a need for institutions, authorities and market participants, including investors that are non-Union residents, to have a comprehensive view and compact access to their obligations and rights. It is therefore desirable to include the relevant regulatory technical standards required by Directive 2014/59/EU in a single Regulation.

(2) Further to the definitions of Directive 2014/59/EU, some specific definitions to technical terms used are necessary.

(3) Uniform rules on the minimum information to be included in recovery plans should take into account but not preclude the competent authorities' powers to determine simplified obligations for certain institutions regarding the contents and details of recovery plans, in accordance with Article 4 of Directive 2014/59/EU.

(4) These uniform rules should further specify, without prejudice to any simplified obligations determined in accordance with Article 4 of Directive 2014/59/EU, the information to be contained in an individual recovery plan and, in accordance with Article 7(5) and (6) of that Directive, in a group recovery plan.

(5) It is essential that the information included in recovery plans be adequate and specific, depending on whether the recovery plans are drawn up by institutions which are not part of a group subject to consolidated supervision pursuant to Articles 111 and 112 of Directive 2013/36/EU of the European Parliament and of the Council, or are individual recovery plans, as provided for in Article 7(2) of Directive 2014/59/EU, or group recovery plans, as provided for in paragraphs 5 and 6 of Article 7 of Directive 2014/59/EU.

(6) To facilitate the internal structure of the recovery plans, the information requirements should be grouped under a number of sections, some of which should be divided into subsections as set out in this Regulation.

(7) To ensure that recovery plans can effectively be implemented, if necessary, in due time, it is essential to build those plans on a sound governance structure. The recovery plans should therefore contain a description of the specific governance arrangements involved. In particular, a plan should set out how it was developed, who approved it, and how it is integrated in the overall corporate governance of the institution or the group. Where relevant, the measures taken to ensure consistency between an individual recovery plan of a subsidiary, if applicable, and the group recovery plan should be described.

(8) Recovery plans are crucial for assessing the feasibility of recovery options. Therefore, a recovery plan should contain detailed information on the decision-making process with regard to its activation as an essential element of the governance structure, based on an escalation process using indicators within the meaning of Article 9 of Directive 2014/59/EU. Since each crisis is different, the materialisation of an indicator does not automatically activate a specific recovery option or, more generally, prompt an automated framework under which a particular recovery option has to be implemented in accordance with predetermined procedural requirements. Rather, indicators should be used to indicate that an escalation process should be started, involving an analysis of the best way to address a crisis situation. Before those indicators materialise, data and benchmarks used in regular risk management should be also applied to inform the institution or group of the risk of deterioration of its financial situation and of the indicators being triggered. While such early warning signals are not indicators within the meaning of Directive 2014/59/EU and as such do not indicate entry into the recovery phase or require escalation outside the business-as-usual processes, they help to ensure consistency between the institution's regular risk management and the monitoring of the indicators. The recovery plan should therefore contain a description of how suitable elements of the institution's risk management are connected with the indicators.

(9) The strategic analysis should take into account international standards for recovery plans such as the Financial Stability Board's "Key Attributes of effective resolution regimes for financial institutions". According to the Key Attributes, the strategic analysis should identify the institution's essential and systemically important functions and set out the key steps to maintaining them in recovery scenarios. Accordingly, the strategic analysis should comprise two parts. The first part of the strategic analysis should describe the institution or the group and its core business lines and critical functions. The description of the institution or of the group should provide a general overview of the institution or of the group and of its activities, together with a detailed description of its core business lines and critical functions. In order to facilitate the assessment of recovery options such as divestments and sales of business lines, it is important to identify the legal entities in which core business lines and critical functions are located, and to analyse intra-group interconnectedness. Under Article 6(1) and (2) of Directive 2014/59/EU, institutions are required to demonstrate to the satisfaction of the competent authority that the recovery plan is reasonably likely to be implemented without causing any significant adverse effect on the financial system. In addition, Article 6(2) of Directive 2014/59/EU requires the

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competent authorities to evaluate the extent to which the recovery plan, or specific options within it, could be implemented without causing any significant adverse effect on the financial system. Recovery plans should therefore contain a description of external interconnectedness.

(10) The second part of the strategic analysis should identify and assess possible recovery options. Recovery options available to the institution or the group should initially be described without reference to a specific scenario of financial stress. These are a means to enhance general crisis-preparedness and assist the institution or the group in reacting flexibly to a crisis. The strategic analysis should then set out how recovery options have been tested against specific scenarios of financial stress in order to tentatively assess which recovery options would be efficient in each of these scenarios, thereby providing a practical test of the efficiency of recovery options and of the adequacy of the indicators. Recovery options should include measures which could be taken by the institution where the conditions for early intervention under Article 27 of Directive 2014/59/EU are met.

(11) Communication of the recovery plan is crucial to implementing it effectively and to avoiding adverse effects on the financial system. A recovery plan should therefore also contain a section on communication and disclosure to address both internal communication to relevant internal bodies and the institution or group's staff, and external communication.

(12) A recovery plan could imply changes to the business organisation of the institution, either to facilitate the update of the plan and its implementation in the future, to monitor indicators, or because the process has identified some impediments complicating the implementation of recovery options. Those organisational preparatory and follow-up actions to be taken by the institution or the group should be described in the recovery plan in order to facilitate effective assessment of whether its implementation is reasonably likely, and to facilitate monitoring of its implementation by the institution or the group, and by competent authorities.

(13) It is essential to specify the minimum criteria that a competent authority must take into consideration when assessing recovery plans drawn up by institutions as provided for in Article 6(2) and Article 8(1) of Directive 2014/59/EU.

(14) Article 16 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council empowers the European Banking Authority (EBA) to issue guidelines to ensure the common, uniform and consistent application of Union law and requires that competent authorities and financial institutions to which such guidelines are addressed make every effort to comply with such guidelines. Since Directive 2014/59/EU mandates the EBA to issue guidelines in accordance with Article 16 of Regulation (EU) No 1093/2010, to specify further certain aspects of the Directive, competent authorities should take into account in accordance with that Article, the guidelines on scenarios for recovery planning and indicators to be included in recovery plans issued by EBA by making every effort to comply with those guidelines in line with Article 16(3) of Regulation (EU) No 1093/2010.

(15) The objective of recovery planning, as set out in Directive 2014/59/EU, is to identify options to maintain or restore the viability and financial position of an institution or group when it is subject to severe stress. The criteria for assessing a recovery plan should therefore seek to ensure that the plan is appropriate to the entities it covers and that the plan and the options identified in it are viable and can be implemented in due course. The exact matters that the competent authority must assess will depend on the content and extent of the recovery plan. Uniform rules concerning the minimum criteria to be assessed should be laid down in order to take into account the ability of competent authorities to

impose simplified obligations for certain institutions regarding the contents and details of recovery plans, in accordance with Article 4 of Directive 2014/59/EU.

(16) Where appropriate, additional criteria should be specified that apply to the assessment of group recovery plans in order to reflect the additional requirements set out in Directive 2014/59/EU that apply to such plans.

(17) Recovery plans should be complete and contain all information required by Directive 2014/59/EU, including elements further specified in this Regulation. The plans should also be comprehensive, including sufficient detail and a sufficient range of options for the circumstances of the entity or entities they cover.

(18) Requirements for the content of resolution plans should take account of ongoing work to coordinate these developments at a global level through the Financial Stability Board.

(19) Standards for the content of resolution plans and the assessment of resolvability should be sufficiently flexible to take account of the circumstances of the institution or group being considered, to ensure that plans are targeted and useful for the implementation of resolution strategies.

(20) Resolution authorities should assess whether liquidation under normal insolvency procedures can credibly and feasibly achieve the resolution objectives. To do this they may need to draw on the relevant expertise of deposit guarantee schemes. The assessment of whether liquidation is feasible and credible does not exclude the need to assess whether the resolution objectives will be achieved to the same extent in liquidation in national insolvency proceedings, including that of minimising reliance on extraordinary financial support.

(21) Assessment of resolvability is an iterative process and is only possible on the basis of an identified preferred resolution strategy. Resolution authorities could conclude at the end of the process that an amended or wholly different strategy is more appropriate.

(22) Variants of the preferred strategy should also be considered in order to take account of circumstances which prevent implementation of the preferred resolution strategy, such as where a single point of entry strategy using the bail-in tool could no longer be feasible if losses exceed the eligible liabilities issued by the parent entity.

(23) Standards for group resolution plans and assessment of resolvability should allow a resolution strategy based on either of the stylised approaches provided by the Financial Stability Board and referred to in recital 80 of Directive 2014/59/EU. Namely, resolution strategies can involve a single resolution authority applying resolution tools at the holding or parent company level of a group (single point of entry), involve more than one resolution authority applying resolution tools in respect of more than one regional or functional subgroup or entity in a cross-border group (multiple point of entry); or can combine aspects of both.

(24) In any case, resolution planning and assessment of resolvability should take account of any supporting action required from resolution authorities other than those taking resolution action, for instance through provision of information, continued provision of critical shared services, or decisions to refrain from taking resolution action, taking into account

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the right of other resolution authorities to act on their own initiative if necessary to achieve domestic financial stability in the absence of effective action by lead resolution authorities.

(25) Section C of the Annex to Directive 2014/59/EU specifies a number of matters which must be considered in assessing the resolvability of an institution or group, but is not exhaustive and requires further specification.

(26) Pursuant to Article 32 of Directive 2014/59/EU, resolution action should only be taken when winding up an institution or group under normal insolvency proceedings would not be in the public interest, and therefore the assessment of resolvability should consider such winding up as an alternative to resolution action.

(27) Article 23(1) of Directive 2014/59/EU sets out various conditions which must be fulfilled to permit a parent institution, a Union parent institution and certain other entities in a group and their subsidiaries in other Member States or third countries that are institutions or financial institutions, on the basis of a group financial support agreement provided in Chapter III of that Directive, to provide financial support in the form of a loan, of provision of guarantees or of assets for use as collateral to another group entity that meets the conditions for early intervention. Pursuant to Article 25(2) of Directive 2014/59/EU, the competent authority of the group entity providing the support may prohibit or restrict the provision of the financial support.

(28) Having regard to the financial difficulties of the receiving entity and the condition that there must be a reasonable prospect that the financial support redresses these financial difficulties, a thorough analysis of capital and liquidity needs of the receiving entity and an analysis of the internal and external causes for the financial difficulties and of past, present and expected market conditions should be undertaken. This analysis should include measures planned for addressing the causes of the distress of the receiving entity which can efficiently support the restoration of its financial situation.

(29) The assessment of the various conditions falls in the responsibility of the entity providing the support (providing entity) and of the competent authority responsible for the providing institution. The assessment should take into account the risk of potential adverse developments. For a comprehensive assessment of the conditions that relate to the providing entity, the competent authority responsible for the providing entity should also take into account information and assessments provided by the competent authority responsible for the group entity receiving the financial support.

(30) The condition that the terms of the provision are in accordance with Article 19(7) of Directive 2014/59/EU should take into account the default risk of the receiving entity and the loss for the providing entity given a default of the receiving entity, based on a comparison of the situations following the support or, respectively, without granting it, and on full disclosure of the relevant information. Those terms should reflect the best interest of the providing entity as described in point (b) of Article 19(7), which stipulates that any direct or indirect benefits may be taken into account that may accrue to a party as a result of the provision of the financial support. This should be verified by a thorough analysis of costs and benefits for the providing entity and the group as a whole in these two scenarios.

(31) Financial support agreements and the provision of the group financial support may improve the resolvability of a group, for example if they are in line with the loss absorption mechanism provided by the resolution strategy. However, they may also impair the

feasibility of the implementation of the chosen resolution strategy, for example if that strategy envisages a separation of different parts of the group. Therefore the assessment of the impact on resolvability should be based on the resolvability assessment, on the individual resolution plan, and, where applicable, on the group resolution plan as determined by the joint decision of resolution colleges.

(32) When carrying out their valuation tasks for the purposes of Article 36, including Article 49(3), and Article 74 of Directive 2014/59/EU it is necessary to ensure that independent valuers are not being influenced, and are not perceived to be influenced, by public authorities, including the resolution authority, or by the institution or entity referred to in point (b), (c) or (d) of Article 1(1) of that Directive.

(33) Accordingly, uniform rules should apply to determine the circumstances in which a person shall be considered independent from the relevant public authorities, including the resolution authority, and from the institution or the entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU. Those rules should contain requirements as to the expertise and resources of the person concerned and their relation to the relevant public authorities, including the resolution authority, and the institution or the entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU.

(34) Independence can be reinforced by conditions ensuring the adequacy of the expertise and resources of the independent valuer. More specifically it should be ensured that the independent valuer possesses the necessary qualifications, knowledge and expertise in all relevant subjects, in particular valuation and accounting in the context of the banking industry. It should also be ensured that the independent valuer holds, or has access to, sufficient human and technical resources to carry out the valuation. For that purpose, it could be appropriate to access sufficient human and technical resources by engaging staff or contractors from other valuation specialists or law firms or other sources, in relation to the carrying out of the valuation. Where staff or contractors are engaged to support the conduct of the valuation they should be subject to conflicts of interest verification so as to ensure that independence is not undermined. In all cases the independent valuer should remain responsible for the outcome of the valuation.

(35) Furthermore it should be ensured that the independent valuer is also capable of carrying out the valuation effectively without undue reliance on any relevant public authority, including the resolution authority, and the institution or entity referred to in point (b), (c) or (d) or Article 1(1) of Directive 2014/59/EU. However, the provision of instructions or guidance necessary to support the conduct of the valuation, for example in relation to the methodology provided pursuant to the Union legislation in the field of valuation for purposes relating to resolution, should not be seen as constituting undue reliance where such instructions are, or guidance is, considered necessary to support the conduct of the valuation. In addition, the provision of assistance, such as the provision by the institution or entity concerned of systems, financial statements, regulatory reports, market data, other records or other assistance to the independent valuer should not be prevented where, in the assessment of the appointing authority or such other authority as may be empowered to conduct this task in the Member State concerned, this is considered necessary to support the conduct of the valuation. In accordance with any procedures which may be put in place, the provision of instructions, guidance and other forms of support should be agreed on a case-by-case or pooled basis.

(36) The payment of reasonable remuneration and the reimbursement of reasonable expenses in connection with the valuation should not be prevented.

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(37) Independence can be endangered if valuation is performed by a person who is employed by or affiliated to any relevant public authority, including the resolution authority, and the institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU even in cases where full structural separation to address threats such as self-review, self-interest, advocacy, familiarity, trust or intimidation has been established. Therefore, there is a need to ensure that appropriate legal separation is secured such that the independent valuer is not an employee or contractor of, nor in a group with, any relevant public authority, including the resolution authority, or the institution or entity concerned.

(38) It is also necessary to ensure that the independent valuer does not have any material interest in common or in conflict with any relevant public authority, including the resolution authority, and the institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU, including its senior management, controlling shareholders, group entities and significant creditors, as could be the case when the independent valuer is a significant creditor of the institution or entity concerned. Similarly, personal relationships could represent a material interest.

(39) Accordingly, the appointing authority, or such other authority as may be empowered to conduct the task in the Member State concerned, should assess whether any material common or conflicting interests are present. For the purposes of this assessment the independent valuer should notify the appointing authority, or such other authority as may be empowered to conduct this task in the Member State concerned, of any actual or potential interest which the person considers may, in the assessment of that authority, be considered to amount to a material interest and provide any information as may be reasonably requested by the authority to inform this assessment. In the case of legal persons, independence should be assessed by reference to the company or partnership as a whole but taking account of any structural separation and other arrangements that may be put in place to differentiate between those staff members who may be involved in the valuation and other staff members, to address threats such as self-review, self-interest, advocacy, familiarity, trust or intimidation. If the significance of those threats compared to the safeguards applied is such that the person's independence is compromised, the company or partnership should not be the independent valuer.

(40) A statutory auditor who has completed an audit of the institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU in the year preceding the independent valuer's assessment for eligibility to act as valuer should not be regarded as independent under any circumstances. As regards other audit or valuation services provided to the institution or entity concerned in the years immediately preceding the date on which independence is to be assessed, these should also be assumed to present a material interest in common or in conflict unless it is demonstrated to the satisfaction of the appointing authority, or such other authority as may be empowered to conduct this task in the Member State concerned, that this is not the case having regard to all relevant circumstances, including any structural separation or other arrangements in place.

(41) Following appointment it is essential that the independent valuer maintains policies and procedures in accordance with the applicable codes of ethics and professional standards to identify any actual or potential interest which the valuer considers may amount to a material interest in common or in conflict. The appointing authority, or such other authority as may be identified in the Member State concerned, should be notified immediately of any actual or potential interests identified and should consider whether these amount to a material interest in which case the independent valuer's appointment should be terminated and a new valuer appointed.

(42) Directive 2014/59/EU requires Member States to confer on their resolution authorities a range of powers, including the write-down and conversion powers as defined in point (66) of Article 2(1) of that Directive which can be applied independently of, or in conjunction with, resolution action.

(43) It is important to ensure that the write-down and conversion powers can be applied in relation to all liabilities that are not excluded by Article 44(2) of Directive 2014/59/EU. For liabilities governed by the law of a third country, other than those falling within the list of liabilities to which the exclusion in Article 55(1) of Directive 2014/59/EU applies, a contractual term should be included to support the application of the write-down and conversion powers to such liabilities.

(44) The contractual terms referred to in Article 55(1) of Directive 2014/59/EU should be included in agreements creating a liability to which that Article applies, entered into after the date of application of the provisions adopted to transpose Section 5 of Chapter IV of Title IV of Directive 2014/59/EU.

(45) In particular, the contractual term referred to in Article 55(1) of Directive 2014/59/EU should be included in relevant agreements concerning a liability which, on creation, is not fully secured or is fully secured but the contractual terms governing the liability do not oblige the debtor to maintain collateral that would fully secure the liability on a continuous basis in compliance with regulatory requirements specified in Union law or the equivalent law in third countries.

(46) For relevant agreements entered into before the date of application of the provisions adopted to transpose Section 5 of Chapter IV of Title IV of Directive 2014/59/EU the contractual term should be included where liabilities are created under that agreement after the transposition date.

(47) In addition, for relevant agreements entered into before the date of application of the provisions adopted to transpose Section 5 of Chapter IV of Title IV of Directive 2014/59/EU, material amendments which affect the substantive rights and obligations of a party to the agreement should entail the obligation to insert the contractual term referred to in Article 55(1) of Directive 2014/59/EU. Non-material amendments which do not affect the substantive rights and obligations of a party to a relevant agreement should not be sufficient to trigger the requirement to include the contractual term; in all other cases the contractual term should be introduced.

(48) In order to allow for an appropriate level of convergence whilst ensuring that differences in legal systems or those arising from the nature or form of liability can be taken into account by resolution authorities, institutions and entities referred to in points (b), (c) and (d) of Article 1(1) of Directive 2014/59/EU it is appropriate to lay down the mandatory contents for the contractual term.

(49) With a view to achieving a uniform approach across the Union ensuring effective coordination among the relevant authorities and to enabling the resolution authority to take adequately informed and swift resolution decisions, this Regulation sets out the procedures and content of the notifications laid down in paragraphs 1, 2 and 3 of Article 81 of Directive 2014/59/EU.

(50) Notifications should be effected by secure electronic communications, reflecting the urgency and importance of the subject matter. To promote coordination between the

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parties, prior oral communication and subsequent confirmation of receipt are contemplated in the process.

(51) Notifications should provide adequate information to the recipient to promptly perform its tasks, specific content is therefore laid down as regards the notification to be submitted to the competent authority by the management body of an institution or entity referred to in point (b), (c) or (d) of Article 1(1) of Directive 2014/59/EU when it is failing or likely to fail. Similarly, the communication of such notification by the competent authority to the resolution authority should contain that information enabling the latter to fulfil its tasks. Specific content requirements should also be provided with regard to the notification of the assessment that an institution or entity referred to in point (b), (c) or (d) of Article 1(1) is failing or likely to fail, when such assessment is initiated by the competent authority or the resolution authority respectively. In such case, the notification should also specify the relevant conditions set out in points (a) and (b) of Article 32(1) of Directive 2014/59/EU.

(52) With a view to providing a harmonised approach across the Union to adequately inform stakeholders of resolution actions, this Regulation sets out the procedures and the content of the notice summarising the effects of the resolution action, including the decision to suspend or restrict the exercise of certain rights in accordance with Articles 69, 70 and 71 of Directive 2014/59/EU.

(53) This Regulation lays down the content of such notice, having regard to some critical information to be conveyed to retail and non-retail customers and creditors; in respect of the elements that are not specified in this Regulation the notice should be consistent with the broader communication strategy developed as part of the resolution plan and addressed in Chapter II, Sections I and II of this Regulation. It is necessary to adopt regulatory technical standards to set out uniform, detailed rules in respect of the establishment of and procedures to be followed by resolution colleges when performing the functions and tasks set out in Article 88 of Directive 2014/59/EU due to the high impact that group resolution planning and resolution may have in more than one Member States.

(54) While establishing a resolution college, it is necessary to avoid duplication of work already conducted by the consolidating supervisor and the supervisory college. It is also important to ensure that this work will be adjusted to respond to the needs of the functioning of the college. In particular, it is appropriate to ensure that the group-level resolution authority takes into account, updates and adjusts accordingly all relevant work conducted by the consolidating supervisor in the context of the supervisory college, in particular with regard to the identification of relevant group entities and consequently the authorities which should be invited to become members or observes of the college ("mapping process").

(55) The reference to other groups or colleges performing the same tasks and functions in accordance with Article 88(6) of Directive 2014/59/EU should be understood as including, but not limited to, crisis management groups established under the common principles and approaches developed by the Financial Stability Board and the G20. It is, therefore, important to provide that group-level resolution authorities, when assessing their obligation to establish a resolution college, also assess whether these other groups or colleges operate in accordance with the provisions of this Regulation.

(56) The involvement of third-country resolution authorities as observers in the resolution college is already foreseen in Article 88(3) of Directive 2014/59/EU. It is therefore

necessary to provide for the process of organising their participation in the resolution college and of their involvement in the various college tasks.

(57) To achieve effective resolution planning, there is a need for efficient and timely interaction and cooperation between the resolution college and the banking group, in particular between the group-level resolution authority and the Union parent undertaking. To that end, the group-level resolution authority is expected to inform the Union parent undertaking on the establishment of the resolution college, its composition and on any changes in this composition. Efficient and timely interaction and cooperation between the group-level resolution authority and the Union parent undertaking should not, however, disregard the speed of action required to preserve financial stability or the preparatory or preventive nature and the complex economic assessment required in resolution planning.

(58) The resolution college's written arrangements and procedures should include the necessary organisational provisions to ensure efficient and effective decision-making processes. In particular, the resolution college should recognise the need to establish flexible substructures within the resolution college to carry out college functions and ensure that members are able to contribute in an appropriate manner across each of the college's functions. In particular, where it is deemed appropriate that authorities, other than the college members, participate in the college as observers, it is necessary that the group-level resolution authority ensures that the terms and conditions of the participation are set out in the written arrangements and that they are not more favourable than those set out in this Regulation for the members of the college.

(59) The resolution college's written arrangements and procedures should also include the necessary operational provisions to ensure that the college enables the resolution authorities to both coordinate their input to the supervisory college and to organise the analysis, consideration and evaluation of the input that the resolution authorities receive from the supervisory college. Written arrangements should, therefore, ideally include a process of communication between the supervisory and the resolution college, most importantly between the group-level resolution authority and the consolidating supervisor. Written arrangements should also lay down the processes to be followed within the resolution college for reaching a common understanding, in all cases where coordination is needed in practice but a joint decision is not required in accordance with Directive 2014/59/EU.

(60) The group-level resolution authority should have access to all information necessary for the performance of its tasks and responsibilities and should act as the coordinator for the collection and dissemination of information received from any college member, or from any group entity subject to the confidentiality provisions and provisions covering the exchange of confidential information laid down in Directive 2014/59/EU.

(61) To ensure that operational procedures are effective to address a case of emergency, the group-level resolution authority should undertake tests for the functioning of the resolution college and should, where deemed appropriate, be enabled to involve the Union parent undertaking in the performance of these tests.

(62) Timely and realistic planning for all joint decision processes is essential. Every resolution authority involved in these processes should provide to the group-level resolution authority its contribution in the respective joint decision in a timely and efficient way and in accordance with the relevant joint decision timetables.

(63) It is necessary to ensure that joint decisions are taken swiftly and in a timely manner. This is particularly important for decisions on resolution but is also relevant for resolution

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planning. At the same time, it should be ensured that all authorities involved in the joint decision-making process are provided with adequate time to express their views. To strike the proper balance between these two objectives, the group-level resolution authority should be empowered to submit its draft proposal to the other authorities involved in the process setting at the same time an adequate time limit after the lapse of which the consent of the non-objecting authorities to that proposal should be assumed. When setting the relevant time limit, the group level resolution authority should take due account of the actual time frame of the decision-making process as set out by provisions of the law or as previously determined by the college itself.

(64) To ensure that an effective process is established, the group-level resolution authority should have the ultimate responsibility for determining the sequencing of the steps to be followed. The steps for reaching any joint decision should be set out, recognising that some of these steps may be performed in parallel and others sequentially.

(65) In accordance with Article 13(3) of Directive 2014/59/EU, group resolution plans should be reviewed and updated at least annually. There is however a need to ensure that group resolution plans are also reviewed and updated on an ad hoc basis, if such a need arises either due to information received by the supervisory college or on the resolution college's own initiative.

(66) To enhance transparency of the functioning of the resolution colleges, uniform conditions of communication of the joint decisions to the Union parent undertaking and to the other entities of the relevant group should be clearly set out in this Regulation. For reasons of ensuring comparability of processes and outcomes, thus achieving convergence, it is necessary to clearly set out uniform rules on the process and documentation required for the joint decision-making within the resolution colleges.

(67) Coordination of individual decisions made by the group-level resolution authority and the resolution authorities of subsidiaries in the absence of a joint decision should also be ensured in order for the resolution college to be able to perform its role as provided for in Article 88(1) of Directive 2014/59/EU. Thus, it is necessary to set out the process of the functioning of the college as a framework for the group-level resolution authority and the other authorities to strive for efficient and workable group resolution planning even in the absence of joint decisions.

(68) In identifying whether there is a need for a group resolution scheme, the relevant resolution authorities participating in the resolution college should consider, in line with Articles 91 and 92 of Directive 2014/59/EU, whether there is a group dimension to the resolution at hand. For that purpose the group-level resolution authority should endeavour to identify all entities of the group which are or could be impacted in case that an entity of the group or the Union parent undertaking meets the conditions under Article 32 or 33 of Directive 2014/59/EU.

(69) In order to ensure optimal conditions for a resolution, there is a need to work efficiently and effectively within a short time frame. Therefore,, it is important to provide that the resolution college, when considering the need for a group resolution scheme, should also consider the need to mutualise national financial arrangements. In particular, with regard to financing plans and the application of Directive 2014/59/EU, the resolution college should take into account whether mutualisation of national financial arrangements is necessary. In the absence of mutualisation, the content and process of the financing plan should be adjusted accordingly. To further ensure efficiency, the group-level

resolution authority should be allowed to substitute its final positive assessment on the need for a group resolution scheme with its proposal on that scheme.

(70) The group resolution scheme should, to the extent possible and appropriate, take into account and follow the group resolution plan unless resolution authorities assess, taking into account the circumstances of the case, that the resolution objectives will be achieved more effectively by taking actions which are not provided for in the resolution plan.

(71) There is a need for all those impacted by the resolution of an institution to have a complete understanding of the views and actions of a resolution authority which disagrees with the joint decision on the group resolution scheme for coordination purposes. Therefore any disagreeing authority should provide clear reasoning to the group-level resolution authority for their disagreement.

(72) This Regulation is based on the draft regulatory technical standards submitted by the European Banking Authority (EBA) to the Commission.

(73) For the purposes of the regulatory technical standards on the content of resolution plans for institutions that are not part of a group subject to consolidated supervision pursuant to Articles 111 and 112 of Directive 2013/36/EU, and the contents of resolution plans required for groups, in accordance, respectively, with Articles 10 and 13 of Directive 2014/59/EU, and for the regulatory technical standards relating to the criteria to be examined for the assessment of the resolvability of institutions or groups, provided for, respectively in Article 15(4) and Article 16(2) of the Directive 2014/59/EU, the EBA has consulted the European Systemic Risk Board.

(74) The EBA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits, and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010,

HAS ADOPTED THIS REGULATION: