



**Decision of the Single Resolution Board  
of 17 December 2018  
establishing the framework for  
the practical arrangements for the cooperation  
within the Single Resolution Mechanism between  
the Single Resolution Board and National Resolution Authorities  
(SRB/PS/2018/15)**

THE SINGLE RESOLUTION BOARD,

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

Having regard to Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010<sup>1</sup> (the "SRM Regulation") and in particular Article 31(1) and Article 50 (1)(q) thereof,

WHEREAS:

(1) The SRM Regulation establishes a Single Resolution Mechanism ("SRM") with a division of tasks between the Single Resolution Board ("SRB") and the national resolution authorities ("NRAs");

(2) Article 31(1) of the SRM Regulation states that the SRB must, in cooperation with NRAs, approve and make public a framework to organise the practical arrangements for cooperation between the SRB and the NRAs within the SRM. Article 50(1)(q) of the SRM Regulation requires the Board in its Plenary Session to approve this framework;

(3) This Decision further develops and specifies the cooperation between the SRB and the NRAs, including the relevant procedures, and thereby ensures the effective and consistent functioning of the SRM;

(4) Respecting the division of responsibilities between the SRB and the NRAs and taking into account the principle of proportionality, this Decision does not go beyond what is necessary for the efficient and effective cooperation between the SRB and NRAs;

(5) The SRB and the NRAs should act in accordance with the general principles and the resolution objectives laid down in Articles 6, 14 and 15 of the SRM Regulation in the exercise of their respective powers and tasks and shall refrain from exercising any action that would restrain or affect the powers or tasks assigned to them in accordance with Article 7 of the SRM Regulation;

(6) In order to ensure the consistent implementation and smooth functioning of the SRM, the SRB will perform its tasks in close cooperation with the NRAs and should develop uniform practices, standards and frameworks;

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<sup>1</sup> OJ L 225, 30.7.2014, p. 1

- (7) High resolution standards should respect the objectives, conditions and general principles stemming from the SRM Regulation and the Directive 2014/59/EU<sup>2</sup> ("BRRD"), including the implementing and delegated Commission acts, and should be in line with good practices as may be further elaborated in Legal instruments of the SRB and guidelines and recommendations of the European Banking Authority ("EBA");
- (8) The SRB and the NRAs should act independently and in the general interest when performing the tasks conferred on them by the SRM Regulation and this Decision;
- (9) It is essential for the smooth functioning of the SRM that there is full cooperation between the SRB and NRAs and that they exchange all the information necessary for the performance of their respective tasks. Both the SRB and the NRAs will make their best efforts to provide information in an accurate manner and without delay;
- (10) In accordance with Article 88 of the SRM Regulation and Article 84 of the BRRD, as transposed in the national legislation, the SRB and the NRAs should ensure that the confidentiality of information exchanged between the SRB and the NRAs is maintained, such as the content and details of resolution plans and the result of any assessment carried out in that context;
- (11) When issuing legal instruments, the SRB should act in good faith having due regard to all relevant circumstances and national law;
- (12) To the extent compatible with EU law, the SRB should have regard of national law transposing the BRRD and any other relevant national law provisions, in particular with regard to the provisions not regulated under the SRM Regulation;
- (13) In accordance with the SRM Regulation, the SRB may establish internal resolution teams ("IRTs") composed of its own staff and staff of the NRAs, headed by coordinators appointed from the SRB's senior staff. The IRT coordinator should promote the objective of cooperating closely and in good faith within the IRT. The NRA staff members of IRTs should have autonomy in the organisation and execution of the activities and responsibilities attributed to them under the work plan established by the IRT coordinator in collaboration with the IRT sub-coordinators;

HAS ADOPTED THIS DECISION:

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<sup>2</sup> 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, OJ L 173, 12.6.2014, p. 190.

PART I

**GENERAL PROVISIONS**

*Article 1*

**Subject matter and purpose**

1. This Decision lays down rules on all of the following:

- (a) The framework referred to in Articles 31(1) and 50(1)(q) of the SRM Regulation to organize the practical arrangements for the cooperation between the SRB and the NRAs, including:
  - (i) The process of issuing of guidelines and general instructions to NRAs by the SRB according to which the tasks are performed and resolution decisions are adopted by NRAs;
  - (ii) the exercise by the SRB of the investigatory powers referred to in Articles 34 to 37 of the SRM Regulation;
  - (iii) requests of the SRB on an ad hoc or continuous basis of information from NRAs on the performance of the tasks carried out by them under Article 7(3) of the SRM Regulation;
  - (iv) the preparation and submission of draft decisions by NRAs on which the SRB may express its views pursuant to Article 31(1)(d) of the SRM Regulation;
- (b) Defining the rules on the staffing, functioning and coordination of IRTs;
- (c) Defining the relations between the SRB and NRAs when cooperating within the framework of a resolution college or European resolution college;
- (d) The procedures, including time limits, concerning the relation between the SRB and NRAs regarding their respective resolution responsibilities, including procedures for cooperation, exchange of information, and the preparation and submission of draft decisions and (draft) resolution plans or any other preparatory work as foreseen in the SRM Regulation by the NRAs for the SRB's consideration;
- (e) The language arrangements between the SRB and NRAs;
- (f) Clarifying the nature of guidelines and general instructions as well as of specific instructions, recommendations and warnings by the SRB and appropriate procedures;
- (g) The procedures relating to the power of the SRB to exercise directly the powers under the SRM Regulation to entities and groups referred to in Article 7(2) of the SRM Regulation, and for the entities and groups referred to in Article 7(4)(b) and (5) of the SRM Regulation where the conditions for the application of those paragraphs are met;
- (h) The relation between the SRB and NRAs regarding the exercise of powers concerning resolution planning, including MREL determination and measures to address or remove impediments to resolvability, early intervention measures, applying simplified obligations, and demands for information from the entities and groups under their respective responsibility;

- (i) The cooperation on implementing and monitoring SRB decisions;
- (j) The cooperation regarding the Single Resolution Fund ("SRF");
- (k) Transitional provisions.

2. This Decision shall be read in conjunction with the Rules of Procedure of the Plenary Session<sup>3</sup> and Rules of Procedure of the Executive Session<sup>4</sup>, in particular with regard to decision-making within the SRM and other relevant SRB decisions, in particular Legal instruments, if applicable.

This Decision does not affect any provisions on cooperation and exchange of information with other parties, in particular with the European Central Bank ("ECB") or the European Commission, under the SRM Regulation.

#### *Article 2*

#### **Definitions**

For the purpose of this Decision, the definitions as set out in Article 3 of the SRM Regulation shall apply, unless otherwise provided for, together with the following definitions:

- (a) "NCA" means any national competent authority as defined in Article 2(2) of the SSM Regulation;
- (b) "Relevant NRA" means an NRA of a participating Member State that is or shall be involved in a specific task, deliberation or other process regarding an entity or a group of entities referred to in Article 2 of the SRM Regulation that is established in that same Member State;
- (c) "BRRD" means the Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014, OJ L 173/190;
- (d) "CRDIV" means the Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013, OJ L 176/338;
- (e) "SSM Framework Regulation" means the Regulation (EU) No. 468/2014 of the ECB of 16 April 2014, OJ L 141/1;
- (f) "Intergovernmental Agreement" means the Agreement on the transfer and mutualisation of contributions to the Single Resolution Fund of 14 May 2014;
- (g) "direct SRB responsibility" means the responsibility of the SRB with regard to entities and groups in accordance with Article 7(2) of the SRM Regulation, or Articles 7(4)(b) and (5) where the conditions for the application of those paragraphs are met;
- (h) "direct NRA responsibility" means the responsibility of an NRA with regard to entities and groups in accordance with Article 7(3) of the SRM Regulation;
- (i) "MREL" means the minimum requirement for own funds and eligible liabilities pursuant to Article 12 of the SRM Regulation;
- (j) "IRT" means an Internal Resolution Team as referred to in Article 83(3) of the SRM Regulation, in accordance with Part III, Title 2 of this Decision;

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<sup>3</sup> Decision of the Plenary Session of 29 April 2015 adopting the Rules of Procedure of the Single Resolution Board in its Plenary Session, No SRB/PS/2015/8 as amended.

<sup>4</sup> Decision of the Plenary Session of 29 April 2015 adopting the Rules of Procedure of the Single Resolution Board in its Executive Session, No SRB/PS/2015/9 as amended.

(k) "JST" means a team of supervisors in charge of the supervision of a significant supervised entity or a significant supervised group, in accordance with Article 2(6) of the SSM Framework Regulation;

(l) "SRB in its Executive Session" means the composition of the Board in accordance with Article 53 and 55 of the SRM Regulation, either in its Restricted or Extended Executive Session, with the participation of the permanent observers;

(m) "SRB in its Restricted Executive Session" means the Board composed of the Chair and Vice-Chair and the four further full-time Members, in accordance with Article 53(1) and 56(3) of the SRM Regulation, with the participation of the permanent observers;

(n) "SRB in its Extended Executive Session" means the Board composed of the members of the SRB in its Restricted Executive Session and the NRAs and observers in accordance with Article 53(1) and (2) of the SRM Regulation;

(o) "SRB in its Plenary Session" means the composition of the Board in accordance with Article 43(1) and 49 of the SRM Regulation;

(p) "Legal instruments" means the following SRB decisions: guidelines, general and specific instructions, warnings and recommendations, in accordance with Part II, Title 2 of this Decision.

## PART II

### **GENERAL PROVISIONS APPLYING TO THE OPERATION OF THE SRM**

#### TITLE 1

#### **PRINCIPLES AND OBLIGATIONS**

##### *Article 3*

#### **General principles of cooperation**

1. The SRB and the NRAs shall cooperate closely in good faith in the exercise of their respective powers and tasks under the SRM Regulation, in particular in the resolution planning, early intervention and resolution phases, in a manner consistent with the SRM Regulation and the relevant national laws.
2. The NRAs shall cooperate with the SRB and support it in the exercise of its tasks relating to the entities and groups under the direct SRB responsibility.
3. Where the NRAs exercise their tasks and powers in relation to entities and groups under the direct NRA responsibility, they shall inform the SRB of the measures to be taken and shall closely coordinate with the SRB when taking those measures as set out in Part IV of this Decision.
4. The SRB and the relevant NRAs shall cooperate closely, including keeping each other informed in a timely manner, in the preparation of their participation in resolution colleges, European resolution colleges and other groups or colleges as referred to in Article 88(6) of the BRRD, in order to ensure the effective and consistent functioning of the SRM.

5. The SRB shall inform NRAs of any proposed changes to the SRB work plan, which will significantly impact the exercise of the NRAs' tasks under the SRM Regulation, with sufficient notice.

6. The SRB and the NRAs shall take the measures necessary to ensure effective compliance with this Decision. To that end, they shall consult with each other, as provided for in the SRM regulation and this Decision, at an appropriate stage enabling them to take into consideration the views expressed before taking a decision on the substance.

7. The SRB and the NRAs shall exchange all the information necessary for the performance of their respective tasks in an accurate manner and without delay. Before any information is disclosed, if the information originates from a third party, which is not subject to EU law, and the BRRD in particular, the SRB and the NRAs shall endeavour to obtain the consent of that third party in order to share this information within the SRM.

8. The oral and written internal communications between the SRB and NRAs shall take place without undue delay and in an accurate manner. As the condition of an entity or group deteriorates, it is expected that cooperation between the SRB and the NRAs will intensify accordingly.

9. The SRB and the relevant NRAs shall cooperate, where appropriate, as regards external communication with interest groups and the media on matters related to resolution and shall agree with each other before issuing any public statements relating to the recovery and resolution of entities and groups as referred to in Article 2 of the SRM Regulation, in accordance with any other Legal instruments.

10. In the event of more than one NRA in a participating Member State, the SRB shall take into account the allocation of tasks and responsibilities between those NRAs. This shall remain without prejudice to the rights and obligations of the representatives of those NRAs appointed as a member of the Plenary and Executive Session of the Board.

11. With regard to entities and groups under direct SRB responsibility, NRAs shall be responsible for maintaining day-to-day relations with other relevant national authorities, including NCAs, competent ministries, central banks, deposit guarantee schemes, investor compensation schemes, and authorities responsible for normal insolvency proceedings, within the same participating Member State, keeping the SRB informed in a timely manner. The SRB shall be responsible for maintaining day-to-day relations with relevant European authorities and institutions, including the ECB and the European Commission, keeping the relevant NRA informed in a timely manner.

This paragraph shall remain without prejudice to the SRB competence to contact directly national authorities, in particular as regards entities and groups that are under its direct responsibility but not subject to the direct supervision of the ECB, and when interaction with these national authorities is necessary. This paragraph shall remain without prejudice to the NRAs' competence to contact directly relevant European authorities and institutions with regard to entities and groups under direct NRA responsibility.

While maintaining such day-to-day relations, the SRB and the NRAs shall act in full transparency to each other.

12. In line with the applicable law, the SRB and the NRAs shall cooperate in case of legal challenges at European or national level.

*Article 4*

**Language arrangements between the SRB and NRAs**

1. Without prejudice to Article 81(4) of the SRM Regulation as regards specific agreements on language arrangements between the SRB and individual NRAs and without prejudice to Council Regulation No.1<sup>5</sup>, the operational working language used in the internal communication between the SRB and the NRAs within the SRM is English, in its spoken and written form.

2. Therefore, written and oral internal communication between the SRB and NRAs at all levels and in all directions, shall be drafted, provided or communicated in English. Such communication includes guidelines, general and specific instructions, recommendations or warnings issued by the SRB and addressed to NRAs, information and any other forms of communication, as well as (draft) resolution plans in connection with entities and groups under direct SRB responsibility.

3. Draft decisions and resolution plans prepared by NRAs for entities and groups under direct NRA responsibility that are drafted in another language than English in accordance with the requirements of national law shall be accompanied by a provisional English executive summary for informative use only, when they are sent to the SRB in accordance with Article 34 of this Decision.

4. In the event of transmission by an NRA to the SRB of any communication, information or other related documents drafted in any of the official languages of the Union chosen by the entity or person in accordance with Council Regulation No 1 or provided by other national authorities and a translation need arises, the SRB shall translate the documents concerned. If possible having regard to the circumstances, NRAs should provide – for informative use only – a provisional English summary of the key aspects or the relevant content of the document, explaining the background and substance of the case and, if applicable, summarizing the deliberations underlying it.

5. In the event of transmission by the SRB to an NRA of any official communication, information or other related document addressed to an entity, the SRB shall translate the documents concerned, if applicable, into the language chosen by the entity in accordance with Council Regulation No 1.

The legal acts of the SRB directly addressed to that entity will be adopted in the language chosen by that entity in accordance with Council Regulation No 1, which will constitute the legally binding version of such a legal act.

6. Legal acts of the SRB addressed to the NRAs for their implementation under national law shall be adopted in English, which will constitute the legally binding version of such a legal act of the SRB. The SRB will endeavour to provide a courtesy translation of its legal act into the national language chosen by that entity in accordance with Council Regulation No 1

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<sup>5</sup> Council Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

simultaneously with the notification of that act to the NRA. This procedure does not apply to the adoption of resolution decisions by the SRB. In this case, following the adoption of the resolution decisions, the SRB will, upon the request of the NRA, provide the NRA with a courtesy translation of its resolution decision into the national language of the implementing act.

7. The SRB in its Plenary Session may adopt a decision specifying the detailed arrangement for the communication between the SRB and NRAs within the SRM.

8. The English summaries as referred to in this Article serve only as a technical tool enabling the SRB to assess the relevant documentation without having any legal effect.

## TITLE 2

### **LEGAL INSTRUMENTS, GUIDANCE NOTES AND SRB CONSULTATION OF NRAs**

#### **General principle**

Legal instruments and guidance notes adopted by the SRB pursuant to this Title shall comply with the SRM Regulation and this Decision. In the event of a conflict between the provisions of this Decision and the provision of other Legal instruments, this Decision shall prevail.

#### *Article 5a*

#### **Guidelines and general instructions**

1. In accordance with Article 31(1)(a) of the SRM Regulation, the SRB in its Restricted Executive Session shall issue guidelines and general instructions to NRAs according to which tasks are performed and resolution decisions are to be adopted by the NRAs.

2. Guidelines and general instructions are not related to a specific entity or group and are not addressed to a specific NRA.

3. Such guidelines and general instructions may also be issued to give further details concerning specific tasks performed by the NRAs with respect to entities or groups under direct SRB responsibility and concerning specific tasks performed by the NRAs with respect to entities or groups under direct NRA responsibility, in line with the SRM Regulation and the SRB's task to ensure effective and consistent functioning of the SRM.

4. Before issuing guidelines, the SRB in its Restricted Executive Session shall submit any draft to the Plenary Session for obtaining its views. The SRB shall take into consideration these views and, in the event that the final guidelines deviate from these views, the SRB shall provide to the Plenary Members explanations for such deviations. The preparation of guidelines shall be made part of the continuous cooperation within the SRB in its Plenary Session and its substructures.

5. Before issuing general instructions, the SRB in its Restricted Executive Session shall submit any draft to the Plenary Session for obtaining its views. The SRB shall ensure that a majority of the Plenary Session supports any general instructions to be adopted by the SRB in its Restricted Executive Session. The preparation of general instructions shall be made part of the continuous cooperation within the SRB in its Plenary Session and its substructures.

6. The NRAs may propose to the SRB to issue guidelines and general instructions.

7. With regard to compliance with guidelines and general instructions, reference is made to Article 12 of this Decision.



*Article 5b*

**Guidance notes**

1. Guidance notes are internal SRB documents addressed to IRTs to provide them with guidance with respect to the entities and groups under the SRB direct responsibility, irrespective of their nature or form.
2. Before issuing guidance notes, the SRB in its Restricted Executive Session shall submit any draft to the Plenary Session for obtaining its views. The SRB in its Restricted Executive Session endeavours to take into consideration these views, and in the event that the guidance notes deviate from these views, the SRB shall provide to the Plenary Members explanations for such deviations. The preparation of guidance notes shall be made part of the continuous cooperation within the SRB in its Plenary Session and its substructures.

*Article 6*

**Specific instructions**

1. Specific instructions are related to a specific entity or group and shall be addressed to the relevant NRAs.
2. Specific instructions may relate to tasks of NRAs in connection with entities and groups under direct SRB responsibility. The SRB in its Extended Executive Session may address specific instructions to the NRAs, in particular, as regards:
  - (a) the preparation of draft resolution plans and draft group resolution plans in accordance with Article 8(3) of the SRM Regulation;
  - (b) measures to effectively address or remove impediments to resolvability in accordance with Article 10(11) of the SRM Regulation;
  - (c) the determination of the MREL in accordance with Article 12 and ensuring that the MREL is maintained in accordance with Article 12(14) of the SRM Regulation;
  - (d) the demonstration that any decision of the SRB to write down or convert a liability governed by the law of a jurisdiction outside the Union would be effected under the law of that jurisdiction so that such liability be counted towards the MREL in accordance with Article 12(17) of the SRM Regulation;
  - (e) the write-down and conversion of capital instruments in accordance with Article 21 of the SRM Regulation;
  - (f) with regard to the application of resolution tools and the exercise of resolution powers, to inform and consult employee representatives of the entity concerned where appropriate in accordance with Article 15(4) of the SRM Regulation;
  - (g) any aspect of the execution of the resolution scheme and the exercise of the resolution powers in accordance with Article 28(2) of the SRM Regulation.
3. When addressing specific instructions to the NRAs in accordance with paragraph 2, the SRB shall provide the reasoning of the decision, relevant supporting documentation and any other information or documentation, as available to the SRB, which is necessary under applicable national law and/or EU law for the NRAs to comply with the instruction.

*Article 7*

**Warnings**

1. In accordance with Article 7(4)(a) of the SRM Regulation, the SRB in its Extended Executive Session may issue warnings. Such warnings are related to a specific entity or group and shall be addressed to a specific NRA.
2. Warnings may relate to tasks of NRAs in connection with entities and groups under the direct responsibility of the NRAs, where necessary to ensure the consistent application of high resolution standards under the SRM Regulation. The SRB may issue a warning to the relevant NRA where it considers that a draft decision with regard to any entity or group referred to in Article 7(3) of the SRM Regulation sent to it by the NRA in accordance with Article 31(1)(d) of the SRM Regulation and Part IV of this Decision does not comply with the SRM Regulation or SRB general instructions.

*Article 8*

**Recommendations**

1. In accordance with Article 33(2) of the SRM Regulation, the SRB in its Extended Executive Session may issue a recommendation to the NRAs on the recognition and enforcement of resolution proceedings conducted by third-country resolution authorities in relation to a third-country institution or a third-country parent undertaking that has:
  - (a) one or more Union subsidiaries established in one or more participating Member States; or
  - (b) assets, rights or liabilities located in one or more participating Member States or governed by the law of participating Member States.
2. The recommendation referred to in paragraph 1 shall be based on an assessment by the SRB after consulting the NRAs and, where a European resolution college is established pursuant to Article 89 of the BRRD, the resolution authorities of non-participating Member States.

*Article 9*

**SRB consultation of NRAs**

1. The SRB shall consult with the relevant NRAs regarding the following:
  - (a) the decision to exercise directly all of the relevant powers under the SRM Regulation also with regard to any entity or group referred to in paragraph 3 of Article 7 of the SRM Regulation (Article 7(4)(b) of the SRM Regulation);
  - (b) the drawing up of resolution plans (Article 8(2) of the SRM Regulation);
  - (c) the decision to apply simplified obligations or to waive the obligation of drafting a resolution plan (Article 11(1) of the SRM Regulation);
  - (d) the decision that the MREL is partially met on a consolidated or on an individual basis through contractual bail-in instruments (Article 12(11) of the SRM Regulation);
  - (e) the assessment of the recognition and enforcement of resolution proceedings conducted by third-country resolution authorities (Article 33(2) of the SRM Regulation);

(f) the decision to defer, in whole or in part, an institution's payment of extraordinary ex-post contributions if it is necessary to protect its financial position (Article 71(2) of the SRM Regulation);

(g) any other decision when deemed necessary by the SRB on its own initiative or upon request from the relevant NRA.

2. The SRB shall ensure that the relevant NRAs are consulted at a sufficiently early stage enabling the SRB to take into consideration the views expressed by the NRAs before taking its decision on the substance. The SRB shall explain any deviations from the views expressed by the NRAs.

3. The SRB may request the relevant NRAs to respond within a specific timeframe, which shall be proportionate with regard to the subject matter of the decision to be taken. The NRAs shall endeavour to respond to the SRB consultation duly and timely, taking into account, where relevant, the timeframe of the decision to be taken.

The SRB shall communicate each decision referred to in this Article to the relevant NRAs.

### TITLE 3

#### **COOPERATION ON MONITORING AND COMPLIANCE BY NRAs WITH SRB DECISIONS**

##### *Article 10*

#### **General provisions**

1. For the purposes of the implementation of the SRB's decisions addressed to them in accordance with Article 29 of the SRM Regulation and to facilitate the monitoring by the SRB of the execution of the resolution scheme in accordance with Article 28 of the SRM Regulation, the NRAs shall:

(a) take all necessary actions for the effective implementation of the SRB's decisions;

(b) exercise their resolution powers under the conditions laid down by national law transposing the BRRD;

(c) comply with the decisions of the SRB, any further instructions of the SRB related to those decisions which complete or amend the initial decisions, and this Decision;

(d) ensure that the applicable safeguards provided for in the BRRD are complied with;

(e) comply with the applicable procedural obligations provided for in Article 83 of the BRRD.

2. If necessary, an NRA can further specify the measures to be taken to implement an SRB decision as long as it complies with the decision addressed to it by the SRB. In the event such specifications might raise questions as to their compliance with an SRB decision, the relevant NRA will submit them to the SRB for approval prior to their implementation.

3. The SRB shall provide the NRAs with all information necessary for implementing SRB decisions, as available to the SRB, in a timely manner. In cases where the NRA identifies information necessary to implement the SRB decision and, if this information is not available to the NRA, it will inform the IRT coordinator.

*Article 11*

**Implementation by NRAs of SRB decisions**

1. The resolution schemes adopted by the SRB and the specific instructions as referred to in Article 6(2) of this Decision shall be implemented by the NRAs pursuant to Article 29 of the SRM Regulation.
2. The SRB in its Extended Executive Session shall specify in the decision a reasonable time limit for the implementation of the specific instruction. If the instruction concerns the adoption of a measure by the NRA, the time limit for the implementation of the specific instruction shall be determined on a case-by-case basis. When determining the timeframe, the SRB, after consulting the NRA, shall take into account restrictions under the administrative and procedural law of the relevant NRA. The NRA shall inform the SRB about such restrictions in advance. The NRA shall inform the SRB without undue delay of the way the instruction was followed.
3. Where an NRA has not followed a decision as referred to in Article 29(2) of the SRM Regulation, the SRB in its Extended Executive Session may exercise its powers under the same provision. The SRB shall notify the relevant NRA prior to exercising its powers. The NRAs shall explain in a reasoned statement to the SRB in its Extended Executive Session why it has not followed the SRB decision.

*Article 12*

**Compliance with guidelines and general instructions**

1. The NRAs shall ensure that they follow and comply with the SRB guidelines and general instructions. The SRB shall promptly inform the relevant NRA of any identified breach.
2. In cases of non-compliance with a guideline or a general instruction, the relevant NRA shall explain in a reasoned statement to the SRB in its Restricted Executive Session why it does not comply with the guideline or the general instruction.
3. In cases of non-compliance with a general instruction the SRB in its Extended Executive Session may issue a warning as referred to and in accordance with Article 7(4)(a) SRM Regulation and Article 7 of this Decision, addressed to the relevant NRA.

*Article 13*

**Compliance with recommendations**

The NRAs shall inform the SRB without undue delay whether and how a recommendation will be complied with. The NRAs shall either follow the SRB recommendations and ask for the recognition or enforcement of the resolution proceedings in their respective territories, or shall explain in a reasoned statement to the SRB in its Extended Executive Session why they do not comply with the recommendation of the SRB.

*Article 14*

**Monitoring by the SRB of compliance by NRAs with Legal instruments**

In accordance with Article 7(1) of the SRM Regulation and without prejudice to Article 15 of this Decision, the SRB shall monitor effective compliance with its Legal instruments, if appropriate, based on reports from NRAs.

*Article 15*

**Monitoring by the SRB of implementation by NRAs of SRB decisions**

1. During resolution planning, the monitoring by the SRB of the implementation of the specific instructions enumerated in Article 6(2)(a) to (d) of this Decision shall be carried out with the assistance of the relevant IRT.
2. The NRAs shall cooperate and assist the SRB in the performance of its monitoring duty as regards the application of write down and conversion powers and the execution by NRAs of resolution schemes.
3. The NRAs involved in the execution of the resolution scheme shall, with the assistance of the relevant IRT, where such assistance is explicitly requested by the NRA, provide, at regular intervals established by the SRB, accurate, reliable and complete information on the execution of the resolution scheme, the application of the resolution tools and the exercise of the resolution powers, including on information referred to in Article 28(1)(b) of the SRM Regulation.
4. In addition, the NRAs involved in the execution of the resolution scheme shall, with the assistance of the relevant IRT if explicitly requested by the NRA, prepare and submit to the SRB the final report on the execution of the resolution scheme referred to in Article 28 of the SRM Regulation.

PART III

**DIRECT SRB RESPONSIBILITY**

TITLE 1

**DEFINITION OF RESPONSIBILITIES**

*Article 16*

**Cooperation with NRAs on entities and groups under direct SRB responsibility**

1. The SRB shall perform its tasks, and be directly responsible for the entities and groups referred to in Article 7(2) of the SRM Regulation, and for the entities and groups referred to in Article 7(4)(b) and (5) of the SRM Regulation where the conditions for the application of those paragraphs are met.
2. In the event of more than one NRA in a participating Member State, any consultations of and notifications to the NRAs that the SRB carries out in accordance with Part III of this Decision or that, in general, relate to the definition of responsibilities within the SRM shall involve all of the NRAs in that Member State.

*Article 17*

**List of entities and groups**

1. The SRB may publish a list containing the names of the entities and groups which fall under its direct responsibility, indicating in case of groups the entity at the highest level of consolidation, and the specific legal basis for such direct responsibility.
2. The SRB, in cooperation with the NRAs, may publish a list containing the names of the entities and groups which fall under the direct responsibility of an NRA and the name of the relevant NRA.

3. The lists referred to in paragraphs 1 and 2 are for informative use only and shall be accessible on or via the SRB's website and shall be updated on a regular basis.

4. The authority which assumes direct responsibility in accordance with Articles 18 to 23 of this Decision shall inform the entity or group concerned in advance. If possible, such communication shall take place no later than one week prior to the date it assumes responsibility.

#### *Article 18*

### **Beginning of direct SRB responsibility**

1. The SRB will automatically assume direct responsibility of an entity or group following an ECB decision to assume direct supervision as referred to in Article 45 SSM Framework Regulation. The direct responsibility of the SRB will commence on the same date as the date on which the ECB will assume direct supervision of the entity or group concerned, as specified in the ECB decision. Upon receipt of the ECB decision to assume direct supervision, the SRB shall inform the relevant NRA and the entity or group promptly.

2. In case of a group that falls under the direct responsibility of the SRB in accordance with Article 7(2)(b) SRM Regulation, the SRB in its Extended Executive Session shall specify in a SRB decision the date on which it assumes direct responsibility and promptly notify that SRB decision to group concerned. This SRB decision may, depending on the circumstances, require to adopt the resolution plan, set the MREL, establish an IRT and resolution college for the respective group.

3. If the SRB in its Extended Executive Session assumes direct responsibility of an entity or group on the basis of Article 7(4)(b) of the SRM Regulation, the SRB shall notify the SRB decision to each entity or group concerned as soon as possible and not later than one week prior to the date on which it will assume direct responsibility.

4. The SRB shall provide copies of the SRB decisions to the relevant NRAs.

5. For the purposes of this Article, in the case of a group, the SRB shall notify the group at the highest level of consolidation within the participating Member States and shall ensure that all entities subject to the direct SRB responsibility within that group are duly informed.

#### *Article 19*

### **End of direct SRB responsibility**

1. The direct responsibility of the SRB for an entity or group will automatically end following an ECB decision to end direct supervision as referred to in Article 46 SSM Framework Regulation. The direct responsibility of the SRB will end on the same date as the date on which the ECB will end its direct supervision of the entity or group concerned, as specified in the ECB decision. Upon receipt of the ECB decision to end direct supervision, the SRB shall inform the relevant NRA within one month.

2. The direct responsibility of the SRB does not automatically end if a group that was previously under direct supervision of the ECB qualifies as a cross-border group as referred to in Article 7(2)(b) of the SRM Regulation.

3. In case of a group that falls under the direct responsibility of the SRB in accordance with Article 7(2)(b) of the SRM Regulation, the SRB in its Extended Executive Session shall adopt

a SRB decision ending direct responsibility if the group no longer qualifies as a cross-border group as referred to in Article 7(2)(b) of the SRM Regulation.

4. In case of an entity or group that falls under the direct responsibility of the SRB in accordance with an SRB decision adopted pursuant to Article 7(4)(b) of the SRM Regulation, the SRB in its Extended Executive Session shall adopt a SRB decision ending direct SRB responsibility if direct responsibility is no longer necessary to ensure the consistent application of high resolution standards. The SRB shall notify the SRB decision ending its direct responsibility to each entity or group concerned as soon as possible and not later than one week prior to the date on which the NRA will assume direct responsibility.

5. The SRB shall adopt such SRB decisions without undue delay and shall provide a copy of this SRB decision to the relevant NRA, specifying the resolution tasks performed and the state of the resolution planning process and powers exercised by the SRB and the current financial situation of the entity or group, accompanied by the relevant documents.

6. For the purposes of this Article, in the case of a group, the SRB shall without undue delay notify the SRB decision to the entity at the highest level of consolidation within the participating Member States and shall ensure that all entities and groups previously subject to direct SRB responsibility within that group are duly informed.

#### *Article 20*

### **Change of the status of a cross-border group under Article 7(2)(b) of the SRM Regulation**

1. If an NRA is of the view that a group under its direct responsibility qualifies as other cross-border group as referred to in Article 7(2)(b) of the SRM Regulation, the relevant NRA shall, without undue delay, inform the SRB.

2. If the SRB is of the view that a group under the direct responsibility of an NRA qualifies as other cross-border group as referred to in Article 7(2)(b) of the SRM Regulation, the SRB shall, without undue delay, inform the relevant NRA.

3. At the request of the SRB or an NRA, the SRB and the relevant NRA shall cooperate in assessing whether a group under the direct responsibility of an NRA qualifies as other cross-border group as referred to in Article 7(2)(b) of the SRM Regulation. The SRB in its Extended Executive Session shall adopt a decision with regard to the change of status of the group concerned.

4. If the SRB decides to change the status of a group, the SRB and the relevant NRA shall fully cooperate in order to ensure the smooth transition of resolution competences.

5. The rules set out above in this Article shall apply *mutatis mutandis* if the SRB or an NRA is of the view that a group no longer qualifies as a cross-border group as referred to in Article 7(2)(b) of the SRM Regulation.

#### *Article 21*

### **SRB decisions pursuant to Article 7(4)(b) of the SRM Regulation**

1. The SRB in its Extended Executive Session may, pursuant to Article 7(4)(b) of the SRM Regulation, decide at any time, on its own initiative, after consulting the relevant NRA, or upon request from the relevant NRA by means of an SRB decision, to exercise directly all of the relevant powers under the SRM Regulation also with regard to any entity or group that

falls under direct NRA responsibility, where this is necessary to ensure the consistent application of high resolution standards.

2. A request of an NRA as referred to in paragraph 1 shall: (a) identify the entity or group in respect of which the NRA is of the view that the SRB should assume direct responsibility; and (b) state why direct SRB responsibility for the entity or group is necessary in order to ensure the consistent application of high resolution standards.

3. The NRA's request shall specify the resolution tasks performed and powers exercised by the NRA and the current financial situation of the relevant entity or group, accompanied by the relevant documents, as available to the NRA.

4. If the SRB prepares a decision pursuant to Article 7(4)(b) on its own initiative, the SRB may request the relevant NRA to provide the information as referred to in paragraph 3. The SRB shall, after providing the NRA the possibility to propose a time limit, specify the date by which such information should be submitted to it.

5. The SRB shall consult with the relevant NRA prior to its final assessment as to whether direct responsibility by the SRB for the entity or group is necessary in order to ensure the consistent application of high resolution standards.

#### *Article 22*

### **Review of the status of an entity or group under direct SRB responsibility pursuant to Article 7(4)(b) of the SRM Regulation**

1. The SRB shall review, at least on an annual basis, whether an entity or group that is under its direct responsibility in accordance with Article 7(4)(b) of the SRM Regulation continues to fulfil the criteria provided for in that Article.

2. The relevant NRA may assess at any time on its own initiative whether it considers that the criteria for the direct responsibility of the SRB are still met. If the NRA is of the view that the direct responsibility of the SRB is no longer necessary, it shall, without undue delay, inform the SRB accordingly by way of a reasoned statement supported by relevant documentation.

3. If the SRB does not agree with the NRA's assessment, it shall consult with the relevant NRA as soon as possible, but in any event prior to its final assessment as to whether direct responsibility of the SRB with regard to the entity or group is no longer necessary in order to ensure the consistent application of high resolution standards.

4. If the SRB decides that direct responsibility of the SRB of the entity or group is no longer necessary to ensure the consistent application of high resolution standards, it shall decide in accordance with Article 19 of this Decision.

5. If the SRB (a) decides to assume the direct responsibility over an entity or group; or (b) decides that the direct responsibility over an entity or supervised group by the SRB shall end, the SRB and the relevant NRA shall fully cooperate in order to ensure the smooth transition of resolution competences.

#### *Article 23*

### **Pending processes**

1. If a change in direct responsibility between the SRB and an NRA is to take place, the authority whose direct responsibility is to end shall inform and cooperate with the authority



which is to become directly responsible of any resolution process formally initiated. The authority whose direct responsibility ends shall provide this information immediately after becoming aware of the imminent change in responsibility.

2. If the direct responsibility changes, the authority whose direct responsibility ends shall undertake reasonable efforts to complete any pending resolution process which requires a decision prior to the date on which the change in the direct responsibility is to occur.

3. If a formally initiated resolution process cannot be completed prior to the date on which a change in the direct responsibility occurs, the authority whose direct responsibility ends shall complete any preparatory steps, unless the authority assuming direct responsibility objects. The authority whose direct responsibility ends shall consult on any preparatory steps the authority assuming direct responsibility. The authority assuming direct responsibility shall provide to the authority whose responsibility ends a copy of the decision taken and any relevant documents relating to that decision.

4. The SRB and the relevant NRA shall fully cooperate with regard to the completion of any pending process and shall exchange any relevant information for this purpose.

## TITLE 2

### **INTERNAL RESOLUTION TEAMS**

#### *Article 24*

#### **Establishment and scope of activities of Internal Resolution Teams**

1. In accordance with Article 83(3) of the SRM Regulation, IRTs may be established to support the SRB in the execution of its resolution tasks as referred to in paragraph 3 with regard to entities or groups under the direct responsibility of the SRB.

2. The IRT act as the main forum of day-to-day cooperation. To ensure close cooperation among the IRT members, the IRT seeks to work as much as possible on the basis of consensus and good faith among its members and on mutual and full commitment to reach results in a timely and efficient manner.

3. The SRB in its Restricted Executive Session, after consulting the relevant NRAs, shall be in charge of the establishment of IRTs, ensuring their efficient functioning. The detailed scope of activity of each IRT shall be determined taking into account in particular, the business, structural and operational complexity, risk profile, size, place of establishment and interconnectedness of an entity or group under the direct responsibility of the SRB. Where appropriate, several entities or groups can be allocated to the same IRT.

4. Without prejudice to other provisions of this Decision, the tasks of an IRT shall include, but may not be limited to, assisting as regards the following:

(a) performing the assessment of recovery plans with a view to identifying any actions in the recovery plan which may adversely impact the resolvability of an entity or group;

(b) defining the need for information, formulating the request of information and performing the analysis of submissions from the entities and groups;

(c) drawing up resolution plans;

(d) preparing the decisions for the SRB in its Extended Executive Session with regards to the application of simplified obligations in line with Article 11 of the SRM Regulation;

- (e) performing the resolvability assessment and preparing the relevant assessments for determining measures to address or remove impediments to resolvability;
- (f) preparing the decisions for the SRB in its Extended Executive Session with regards to resolution plans and resolvability assessment and the SRB's instructions to the NRA to take measures in accordance with Article 10(11) of the SRM Regulation;
- (g) determining the MREL for individual entities and groups and preparing any relevant decisions;
- (h) preparing the SRB's chairing and/or participation in resolution colleges;
- (i) monitoring of the compliance of an institution with an early intervention measure;
- (j) the preparation of resolution schemes;
- (k) monitoring the execution of resolution schemes;
- (l) advising the SRB in its Executive Session on matters within IRTs responsibilities;
- (m) ensuring coordination with the on-site inspection team referred to in Article 41 of this Decision, and if necessary, to assist in carrying out an on-site inspection or general investigation;
- (n) cooperating with NRAs where relevant, in particular concerning the activities specified in Part III of this Decision on direct SRB responsibility;
- (o) cooperating with competent authorities and Joint Supervisory Teams ("JSTs") where relevant;
- (p) any other matter deemed necessary by the SRB and in agreement with the relevant NRAs.

#### *Article 25*

#### **Staffing of Internal Resolution Teams**

1. Each IRT shall be composed of staff members from the SRB and from the relevant NRAs. The coordination of the IRT will be performed by a designated SRB senior staff member, the IRT coordinator, in cooperation with one or more sub-coordinators from the relevant NRAs.
2. The SRB and NRAs shall consult with each other and agree on the use of NRA resources with regard to the IRTs, taking into account the tasks and responsibilities of the NRAs as regards entities and groups under their direct responsibility and other tasks and responsibilities of the NRA, as well as available expertise and knowledge within the IRT.
3. The appointment of NRA staff members to IRTs shall be made by the relevant NRAs. The NRA may designate one or more persons from their staff as a member or members of an IRT. NRA and SRB staff members can be a member of more than one IRT. In case the NRA decides to appoint new NRA staff members or to change any of them, the change shall be communicated to all IRT members.
4. Notwithstanding paragraph 3, the SRB, after consulting or at the request of the relevant NRAs, may decide to modify the staffing of an IRT when deemed necessary and appropriate in light of the circumstances of the case, in particular having regard to the resolution phase applicable to the specific entity or group. The SRB request to the NRA to appoint different staff members and the decision to modify the staffing of an IRT shall be duly motivated.

5. In the event of more than one NRA in a participating Member State, the NRAs concerned shall coordinate their participation within the IRTs in accordance with their corresponding tasks and responsibilities under national law. The IRT coordinator shall coordinate and agree with the participation of members of the staff of different relevant authorities and agree with the distribution of the specific tasks allocated to them.

*Article 26*

**IRT coordinator and sub-coordinators**

1. Each relevant NRA shall – as a principle - designate one sub-coordinator per IRT. In the event of more than one NRA in a participating Member State, the sub-coordinators of the NRAs concerned shall agree with each other on the division of their participation as regards the tasks of the IRTs in accordance with their corresponding tasks and responsibilities under national law.

2. The IRT coordinator, in cooperation with the sub-coordinators designated in accordance with paragraph 1, shall ensure the coordination of the work within the IRT. For this purpose, IRT members shall follow the IRT coordinator's instructions and, the instructions of the sub-coordinator appointed by the same NRA, as regards their tasks in the IRT. This shall be without prejudice to their tasks and duties within their respective NRA.

3. The IRT coordinator shall provide instructions to the sub-coordinator as necessary in order to achieve the tasks of the SRB. The sub-coordinator is responsible for communicating those instructions to the other NRA staff members in the IRT appointed by the same NRA. This shall remain without prejudice to the possibility of the IRT coordinator to communicate directly with all members of the IRT. In this case, the IRT coordinator shall ensure that each sub-coordinator is duly informed about any interaction and its content between SRB and NRA staff members of the same IRT.

4. The sub-coordinator may give instructions to the members of the IRT appointed by the same NRA, provided that these do not conflict with the instructions given by the IRT coordinator.

5. Whilst respecting the autonomy of the NRA staff members of IRTs, and in order to ensure timely execution of the activities and responsibilities attributed under the work plan established by the IRT coordinator in collaboration with the sub-coordinators, the IRT coordinator shall be responsible for the establishment of procedures and mechanisms, including reporting mechanisms, to be followed by all members of the IRT. The IRT coordinator should have prompt access to all relevant information on the development of the activities and responsibilities attributed to NRA staff members of the IRT under the work plan whenever considered necessary.

6. The SRB and the NRAs shall ensure that all members of the IRT have access to the information necessary to carry out their respective tasks. The IRT coordinator and sub-coordinators shall coordinate with each other in order to verify whether all or some of the information they require is already available before any request is addressed to any entity or a group, and if so, provide it without undue delay to the IRT.

7. The IRT coordinator shall in principle act as the single point of contact for the JST coordinator. The IRT shall endeavour to establish a regular collaboration and information exchange between the IRT and the JST. The IRT coordinator shall submit such information immediately to the sub-coordinators.

Each sub-coordinator shall in principle act as the single point of contact for requests for information from the NCA if it regards entities and groups that are not subject to the direct supervision of the ECB.

### TITLE 3

## **RESOLUTION PROCESSES**

### *Article 27*

#### **General principle**

Without prejudice to the SRM Regulation, the resolution processes laid down in Articles 28-31 shall be carried out by the SRB through the IRTs, in accordance with the provisions on IRTs in Part III, Title 2 of this Decision.

### *Article 28*

#### **Resolution planning and assessment of resolvability**

1. In order to enable the SRB to conduct an assessment of resolvability as referred to in Article 10(1) of the SRM Regulation when drafting and updating resolution plans, the SRB may, in accordance with Article 8(2) of the SRM Regulation, require the relevant NRAs to prepare and submit to the SRB a draft resolution plan or group resolution plan.
2. The NRAs shall obtain all information necessary to draw up and implement the resolution plans in accordance with Article 8(4) of the SRM Regulation and submit it to the SRB. The SRB shall submit to the NRA all information which the SRB has obtained in accordance with the SRM Regulation and which is necessary in order to prepare a draft resolution plan or group resolution plan. The SRB shall transmit to the relevant NRA the recovery plan or group recovery plan received from the ECB or from the relevant NCA if not already received directly from that NCA.
3. When determining the date by which the first resolution plan or any update to an already existing resolution plan shall be drawn up, the SRB shall seek and take into account the views of the relevant NRA which the SRB intends to require preparing a draft resolution plan or group resolution plan.
4. In the event that the SRB intends to instruct the NRA to take any measures to address or remove impediments to the resolvability set out in Article 10(11) of the SRM Regulation, the SRB shall provide the NRA with:
  - (a) the specific terms of the intended measure;
  - (b) the reasoning, relevant supporting documentation and any other information which is necessary under applicable national law and/or EU law to enable the NRA to take any such measures. The NRA shall advise the SRB on the necessary elements according to national law;
  - (c) the indication how the assessment or determination complies with the requirement for proportionate application laid down in Article 10 of the SRM Regulation.

The SRB is responsible for transmitting the abovementioned information to the NRA without undue delay.

*Article 29*

**Procedures for applying simplified obligations**

1. Before the SRB in its Extended Executive Session applies simplified obligations in relation to the drafting of resolution plans or waives the obligation of drafting those plans as set out in Article 11(1) of the SRM Regulation, the SRB shall consult the relevant NRAs.
2. The relevant NRA may propose to the SRB in its Extended Executive Session the application of simplified obligations in relation to the drafting of resolution plans or to waive the obligation of drafting those plans if the NRA considers that the requirements set out in Article 11 of the SRM Regulation are met by the entity or group. Such proposal shall be reasoned and shall be supported by the relevant documentation.
3. If the NRA which has proposed the application of simplified obligations or the grant of a waiver considers that the decision to apply simplified obligations or the grant of the waiver must be withdrawn, it shall proceed as set out in Article 11(9) of the SRM Regulation.

*Article 30*

**Determination of minimum requirement for own funds and eligible liabilities**

1. Where the SRB in its Extended Executive Session determines the MREL as referred to in Article 12 of the SRM Regulation, the SRB may:
  - (a) request the NRA to submit all information necessary to make such determination to the extent such information is not already available to the SRB;
  - (b) if the SRB has required the NRA to prepare and submit to the SRB draft resolution plans or group resolution plans in accordance with Article 8(2) of the SRM Regulation, request the relevant NRA to prepare a draft decision regarding such determination.
2. The SRB shall address its MREL determination to the NRAs. The NRAs shall implement such instructions in accordance with Article 29 of the SRM Regulation by exercising their powers under national law transposing the BRRD and in accordance with the conditions laid down in national law. The SRB shall provide the NRAs with all information needed by them under applicable law and for the implementation of the MREL determination. The NRAs shall communicate the list of the relevant required information to the SRB. The NRAs shall inform the SRB of the implementation of such instructions in a timely manner.
3. Where the SRB requires the NRAs to verify and ensure that entities and groups maintain the MREL, it will give the necessary guidance according to which the NRAs shall conduct and report to the SRB the verification measures.
4. If the SRB intends to waive the MREL on an individual basis to a parent institution or to a subsidiary in accordance with Article 12(10) of the SRM Regulation, it shall inform the relevant NRA accordingly.
5. If the NRA has proposed to the SRB to waive the MREL on an individual basis to a parent institution or a subsidiary in accordance with Article 12(10) of the SRM Regulation, the SRB shall decide on such proposal within a reasonable period of time.
6. If the SRB intends to decide that the MREL is partially met on a consolidated or on an individual basis through contractual bail-in instruments in accordance with Article 12(11) of the SRM Regulation, it shall consult with the NRA. The NRA shall make a recommendation regarding:

- (a) the specific type(s) of contractual bail-in instruments that should be issued;
- (b) the entity(ies) that should issue the instruments; and
- (c) whether the instruments should be underwritten by specific other entities within the same group or by third-party investors.

7. If the NRA has proposed to the SRB to decide that the MREL is partially met on a consolidated or on an individual basis through contractual bail-in instruments in accordance with Article 12(11) of the SRM Regulation, the SRB shall decide on such proposal within a reasonable period of time.

#### *Article 31*

### **Early intervention and crisis preparedness**

1. The SRB shall inform the relevant NRA of the actions it takes pursuant to Article 13(3) of the SRM Regulation in accordance with paragraph 3.

2. If the SRB requires the NRA to draft a preliminary resolution scheme for the institution or group concerned, the SRB shall make available to the NRA, if it has not already done so in accordance with Article 30(2) of the SRM Regulation, the information which the SRB has received in accordance with Article 13(2) of the SRM Regulation as well as any other information available to the SRB which is necessary to draft the preliminary resolution scheme.

3. In order to ensure consistency of action as set out in Article 13(5) of the SRM Regulation, the SRB shall inform the relevant NRAs without undue delay:

- (a) of any action which the SRB intends to take pursuant to Article 13(3) of the SRM Regulation; and
- (b) of any additional measure referred to in Article 13(4) of the SRM Regulation of which the SRB has been informed by the ECB or the NCAs.

#### PART IV

### **ENTITIES AND GROUPS UNDER DIRECT NRA RESPONSIBILITY**

#### *Article 32*

### **Entities and groups under direct responsibility of the NRAs**

The NRAs shall perform their tasks, and be directly responsible for the entities and groups referred to in Article 7(3) of the SRM Regulation.

#### *Article 33*

### **Reporting of draft decisions**

1. Pursuant to Article 7(3)(fifth subparagraph) of the SRM Regulation, the NRAs shall inform the SRB prior to taking the following measures:

- (a) the adoption of resolution plans referred to in Article 9 of the SRM Regulation, as well as any updates, and the assessment of the resolvability of an entity or a group;
- (b) the application of simplified obligations or waivers in relation to the requirement of drafting resolution plans;
- (c) the determination of the MREL applicable to each entity;

- (d) the application of measures during early intervention in accordance with Article 13(3) of the SRM Regulation;
- (e) the decision to place an entity under resolution or the NRA's assessment that the conditions for resolution are not met;
- (f) the adoption of a resolution scheme in connection with an entity; and
- (g) the write down or conversion of capital instruments, the application of a resolution tool or the exercise of one or more resolution powers, provided that they were not foreseen in a resolution scheme on which the SRB had already been informed.

*Article 34*

**Draft decisions on entities and groups under direct NRA responsibility**

1. Pursuant to Article 31(1)(d) of the SRM Regulation when deciding on the measures set out in Article 7(3)(fifth subparagraph) of the SRM Regulation, NRAs shall send to the SRB the draft decisions which concern the entities and groups under direct NRA responsibility.
2. The SRB completes its assessment of the draft decisions within 20 working days from the notification by the relevant NRA.

However, in case of:

- (a) draft resolution plans with a resolution scenario and related draft MREL decisions, according to Article 7(3)(a) and (d) of the SRM Regulation; and
- (b) notifications of application of simplified obligations, according to Article 7(3)(c) of the SRM Regulation,

the SRB completes its assessment within 40 working days from the notification from the relevant NRA, when circumstances so require.

3. In cases of urgency, NRAs may send draft decisions or assessments as referred to in Article 33(1)(e) of this Decision to the SRB on a shorter notice, in which case the period within which the SRB may express its views shall be defined by the relevant NRA in agreement with the SRB and shall be reasonable having regard of the circumstances of the case.
4. Within 10 working days from their adoption, NRAs shall submit to the SRB a copy of the resolution plans referred to in Article 9 of the SRM Regulation, as well as any updates.
5. The SRB shall perform its oversight function pursuant to Articles 7(3) and 31(1)(d) of the SRM Regulation ensuring consistency and taking into account the principle of proportionality.

*Article 35*

**Obligation of NRAs to report to the SRB**

In accordance with Articles 30(2) and 31(1)(c) of the SRM Regulation, the SRB may request from NRAs, on regular or ad hoc basis, information on the performance of the tasks carried out in respect of entities under the NRA direct responsibility. The scope and timing of such regular or ad-hoc reporting requirements shall be proportionate having regard in particular of the nature, size and financial situation of the concerned entities and the importance of the measures or actions taken.

PART V

**RESOLUTION COLLEGES WITHIN THE SRM**

*Article 36a*

**The SRB as chair of a resolution college**

1. In accordance with Article 88 of the BRRD if and when the SRB is the group-level resolution authority, it shall establish resolution colleges to carry out the tasks mentioned in the aforementioned Article 88 and, where appropriate, to ensure cooperation and coordination with third-country resolution authorities.
2. The SRB shall prepare and chair the resolution college in accordance with paragraph 1. The NRAs of the participating Member States where entities of the same group are located that are under direct NRA responsibility shall participate in the resolution college as members. The relevant NRAs of the entities and groups that are under the direct SRB responsibility shall be entitled to participate in the resolution college as observers. In the event of more than one NRA in a participating Member State, they may request to participate as observers in accordance with their corresponding tasks and responsibilities.
3. In order to ensure the effective and consistent functioning of the SRM, when preparing the position in the resolution college referred to in paragraph 1, the SRB shall coordinate with the representatives of the NRAs that participate in the resolution college before any formal position can be taken by the SRB.

*Article 36b*

**The NRA as chair of a resolution college**

1. In accordance with Article 88 of the BRRD if and when the NRA is the group-level resolution authority, it shall establish resolution colleges to carry out the tasks mentioned in the aforementioned Article 88 and, where appropriate, to ensure cooperation and coordination with third-country resolution authorities.
2. The SRB shall be entitled to participate in the same college as observer. In order to ensure the effective and consistent functioning of the SRM, when preparing the position in the resolution college referred to in paragraph 1, the representatives of the NRA shall coordinate with the SRB before any formal position can be taken by the relevant NRA.

*Article 37*

**The SRB and NRAs as members of a resolution college**

1. If the group-level resolution authority is not in a participating Member State, the SRB and the NRAs shall participate in the resolution college in accordance with the following rules and with the relevant EU law:
  - (a) if an entity or a group is under the direct responsibility of the SRB, the SRB shall participate in the resolution college as a member. The SRB will request the group-level resolution authority that the relevant NRAs shall be entitled to participate in the same college as observers;
  - (b) if an entity or group is under the direct responsibility of an NRA, the NRA shall participate in the resolution college as member. The NRAs will request the group-level resolution authority that the SRB shall be entitled to participate in the same college as observer;



(c) if one or more entities are under the direct responsibility of the SRB, while one or more other entities within the same group are under the direct responsibility of NRAs, the SRB and the relevant NRAs shall participate in the resolution college as members, cooperating together in order to ensure the effective and consistent functioning of the SRM. The NRAs of the entities under the direct responsibility of the SRB may request to participate in the resolution college as observers.

2. In order to ensure the effective and consistent functioning of the SRM, when preparing the position in the resolution college referred to in paragraph 1, the SRB and the representatives of the NRAs that participate in the resolution college shall coordinate with each other before any formal position can be taken by the SRB or the relevant NRA.

#### *Article 38*

### **The SRB and NRAs as members of a European resolution college**

1. In accordance with Article 89 of the BRRD, if and when the Union subsidiary is under the direct responsibility of the SRB, the SRB shall establish, where relevant together with resolution authorities of non-participating Member States, a European resolution college to carry out the tasks mentioned in Article 88 of the BRRD. The NRAs of the entities under the direct responsibility of the SRB shall be entitled to participate in the European resolution college as observers. In the event of more than one NRA in a participating Member State, they may request to participate as observers in accordance with their corresponding tasks and responsibilities.

2. The SRB shall prepare and chair the European resolution college referred to in paragraph 1 if the Union subsidiaries are held by, or the significant branches are of, a financial holding company under its direct responsibility.

3. In accordance with Article 89 of the BRRD, if and when the Union subsidiary or Union branch is under the direct responsibility of the NRA, the NRA shall establish, where relevant together with resolution authorities of non-participating Member States, a European resolution college to carry out the tasks mentioned in Article 88 of the BRRD. The SRB shall be entitled to participate in the same college as observer.

4. The NRA shall chair the resolution college referred to in paragraph 3, if the Union subsidiaries are held by, or the significant branches are of, a financial holding company under its direct responsibility.

5. If one or more Union subsidiaries are under the direct responsibility of the SRB, while one or more other Union subsidiaries or significant branches within the same group are under the direct responsibility of NRAs, the SRB and the relevant NRAs shall participate in the European resolution college as members and shall consult with each other in order to ensure the effective and consistent functioning of the SRM.

6. The SRB shall chair the European resolution college referred to in paragraph 5 if no Union subsidiary or significant Union branch is under the responsibility of resolution authorities of non-participating Member States.

PART VI

**ACCESS TO INFORMATION, INVESTIGATIONS AND ON-SITE INSPECTIONS**

*Article 39*

**Requests for information from entities and groups under direct SRB responsibility**

1. The IRT shall act as the single point of contact for requests for information from the respective entity or group under the direct responsibility of the SRB, and from the employees and third parties to whom the entity has outsourced functions or activities.
2. The IRT coordinator, in cooperation with the sub-coordinator(s), sets the concrete modalities for the contact with the respective entity or group as referred to in paragraph 1.
3. The contact with the respective entity or group under this Article shall be conducted in full transparency to all IRT members.

*Article 40*

**General investigations**

1. Pursuant to Article 35 of SRM Regulation, the SRB may conduct general investigations of any legal or natural person referred to in Article 34(1) of the SRM Regulation, established or located in a participating Member State. The SRB may conduct the investigations directly or through the NRAs, and if applicable with assistance from the members of the IRTs.
2. Where the SRB intends to conduct the investigation directly, the relevant NRA will be informed as soon as possible and in any event at least one week before the start of the investigation. The term of one week may be shortened for urgent circumstances.
3. Without prejudice to Article 35(2) of the SRM Regulation, even when the SRB conducts the investigation directly, it may at any time ask the relevant NRA for the necessary assistance.
4. Whenever the SRB conducts the investigation through NRAs, the request shall duly specify the purpose of the investigations and the activity required. The NRAs will keep the SRB duly informed about the progress of the investigation and will inform the SRB of the outcome of the investigation as soon as possible, accompanied by all relevant documents. When the SRB conducts the investigation directly, it will inform the relevant NRAs, if applicable through the IRT, of the outcome.

*Article 41*

**On-site inspections**

1. Pursuant to Article 36 of the SRM Regulation, in order to carry out the tasks assigned to it by that Regulation, the SRB may appoint on-site inspection teams to conduct all necessary on-site inspections on the premises of a legal person as referred to in Article 34(1) of the SRM Regulation.
2. The SRB shall be in charge of the establishment and the composition of on-site inspection teams with the possible involvement of staff members of and other persons authorised or appointed by NRAs in accordance with Article 36 of the SRM Regulation. If applicable, the members of the IRT concerned may assist in the on-site inspection.
3. The SRB may designate the head of the on-site inspection team from among SRB and NRAs staff members.

4. The SRB and NRAs shall coordinate with each other and agree on the use of NRA resources with regard to the on-site inspection teams, taking into account the circumstances of the case, including the urgency and duration of the on-site inspection.
5. The SRB shall notify the NRA, the NCA and the ECB where the on-site inspection is to be conducted at least one week before notifying the legal person subject to the on-site inspection of such inspection. If the proper conduct and efficiency of the inspection so require, the SRB may carry out an on-site inspection without prior notification of the entity concerned. In that case, the NRA, the NCA and the ECB shall be notified as soon as possible before the start of such on-site inspection.
6. The on-site inspection team shall follow the instructions of the head of the on-site inspection team as regards their tasks.
7. Where the entity subject to the on-site inspection is under direct SRB responsibility, the head of the on-site inspection team shall be responsible for the coordination and exchange of information between the on-site inspection team and the IRT in charge of the resolution tasks of the respective entity or group.

## PART VII

### **COOPERATION REGARDING THE SRF**

#### *Article 42*

#### **Cooperation regarding the SRF**

1. Contributions to the SRF as referred to Articles 69, 70 and 71 of the SRM Regulation will be raised by NRAs or national financing arrangements and transferred to the SRF in accordance with Article 67 of the SRM Regulation and the Intergovernmental Agreement.
2. On the basis of the reporting template developed by the SRB in accordance with Article 6 of Council Implementing Regulation (EU) 2015/81<sup>6</sup>, data has to be collected from the entities and groups by the NRAs. During the data collection process, NRAs are the primary point of contact for communicating with entities and groups established in their respective jurisdictions. Having regard to Article 14 of the Commission Delegated Regulation (EU) 2015/63<sup>7</sup>, entities and groups are required to submit the data to the NRAs so that it can be transmitted to the SRB every year by 31 January at the latest.
3. After the data collection process, the SRB, in close cooperation with the NRAs, calculates the annual individual *ex-ante* contributions pursuant to Article 70 of the SRM Regulation and the *ex post* contributions pursuant to Article 71 of the SRM Regulation. During this phase, the NRAs act as first point of contact with the entities and groups and closely collaborates with the SRB, in particular for the consistency checks of the data transmitted.
4. In accordance with Article 5(1) of the Council Implementing Regulation (EU) 2015/81, the SRB communicates its decision on the calculation of annual contributions of the entities and groups authorised in their respective jurisdictions in writing to the relevant NRAs to the extent it concerns the entities and groups authorised in their respective jurisdictions. In line with the

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<sup>6</sup> Council Implementing Regulation (EU) 2015/81 of 19 December 2014 specifying uniform conditions of application of Regulation (EU) No 806/2014 of the European Parliament and of the Council with regard to ex ante contributions to the Single Resolution Fund, OJ L 15, 22.1.2015, p. 1.

<sup>7</sup> 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, OJ L 11, 17.1.2015, p. 44.

applicable law, the SRB timely provides in writing the NRAs with elements necessary to operate the tasks conferred to the NRAs as per the data and the contributions collection.

5. The NRAs have to notify the decisions to the entities and groups authorised in their jurisdictions according to Article 13(1) Commission Delegated Regulation (EU) 2015/63 every year before 1 May. In line with the applicable law, the SRB provides all necessary information for the NRAs to be able to fulfil their national requirements in this regard.

6. Under Article 67(4) of the SRM Regulation, the contributions as referred to Articles 69, 70 and 71 of the SRM Regulation shall be raised from entities by the relevant NRAs and transferred to the SRF in accordance with the Intergovernmental Agreement. According to Article 3(2) of the Intergovernmental Agreement, the NRAs shall transfer the *ex-ante* contributions corresponding to every year by 30 June of that year at the latest.

7. The SRB in its Restricted Executive Session keeps the SRB in its Plenary Session informed in advance of:

- (a) decisions which have a strategic impact on the functioning of the SRF;
- (b) on all significant decisions related to the calculation of contributions; and
- (c) on all other significant decisions pertaining to the implementation of the investment policy.

#### PART VIII

### **TRANSITIONAL AND FINAL PROVISIONS**

#### *Article 43*

#### **Decisions taken by NRAs**

Without prejudice to the exercise by the SRB of the powers conferred on it by the SRM Regulation, decisions taken by NRAs in accordance with national law before the date of the full applicability of the SRM Regulation, as laid down in Article 99(2) of the SRM Regulation remain unaffected.

#### *Article 44*

#### **Continuity of existing arrangements**

1. All existing cooperation arrangements with other authorities entered into by an NRA prior to the date of the full applicability of the SRM Regulation, as laid down in Article 99(2) of that Regulation, that cover at least in part tasks and responsibilities of the SRB shall continue to apply subject to paragraph 2.

2. The SRB may decide to participate in such existing cooperation arrangements in accordance with the procedure applicable to the arrangements in question or establish new cooperation arrangements with third parties for the tasks and responsibilities assigned to it by the SRM Regulation. An NRA shall continue to apply existing cooperation arrangements only to the extent they are not replaced by SRB cooperation arrangements. Where necessary for the execution of the existing cooperation arrangements, the NRA shall be responsible for cooperating with the SRB, in particular by exercising its rights and performing its responsibilities under the arrangements in coordination with the SRB.



*Article 45*

**Entry into force**

This Decision shall enter into force on the day of its adoption by the SRB in its Plenary Session and replace the Decision of the Board of 28 June 2016.

This Decision shall be published on the website of the SRB within one week after its entry into force.

*Done at Brussels, on 17 December 2018*

*For the Single Resolution Board*

*Elke KÖNIG*

*Chair*