



## **DECISION OF THE PLENARY SESSION OF THE BOARD**

**of 28 June 2016**

**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/2016/07)**

THE SINGLE RESOLUTION BOARD IN ITS PLENARY SESSION,

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 in particular Article 31(1) and Article 50 (1)(q) thereof,

Whereas

(1) Regulation (EU) No 806/2014 (hereinafter the "SRM Regulation") establishes a Single Resolution Mechanism with a division of tasks between the SRB and the national resolution authorities (hereinafter "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) As a result, 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, 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 and 14 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) High resolution standards should respect the objectives, conditions and general principles stemming from the SRM Regulation and the BRRD and should be in line with good practices as may be further elaborated in SRB legal instruments and guidelines and recommendations of the EBA;

(7) 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;

(8) 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 that may have an impact on their respective tasks. Both the SRB and the NRAs will make their best efforts to provide information in an accurate manner and without delay;

(9) In accordance with Article 88 of the SRM Regulation, 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;

(10) When issuing legal instruments, the SRB should act in good faith having due regard to all relevant circumstances and the national law;

(11) The SRB should have regard of national law transposing the BRRD, in particular with regard to the provisions not regulated under the SRM Regulation;

(12) 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 organization 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:

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 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;
- (b) Defining the rules on the composition, 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 institutions under their respective responsibility;
  - (i) The cooperation on implementing and monitoring SRB decisions;
  - (j) The cooperation regarding the Single Resolution Fund;
  - (k) Transitional provisions.
2. This Decision shall be read in conjunction with the Rules of Procedure of the Plenary Session<sup>1</sup> and Rules of Procedure of the Executive Session<sup>2</sup>, in particular with regard to decision-making within the SRM and other relevant SRB decisions, in particular SRB legal instruments, if applicable.

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

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<sup>1</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.

<sup>2</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.

## *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 in accordance with Article 16(1) of this Decision 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 in accordance with Article 32 of this Decision 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;
- (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;
- (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, 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 in accordance with Article 7(2) of the SRM Regulation and Articles 7(4) (b) and (5) where the conditions for the application of those paragraphs are met.

3. Where the NRAs exercise their tasks and powers in relation to entities in accordance with Article 7(3) of the SRM Regulation, 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 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 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 this Decision, at an appropriate stage enabling them to take into consideration the views expressed before taking a decision on the substance.

6. The SRB and the NRAs shall exchange all the information necessary for the performance of their respective tasks. Before any information is disclosed, if the information originates from a third party, the SRB and the NRAs shall endeavor to obtain the consent of that third party in order to share this information within the SRM.

7. 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 shall intensify accordingly.

8. 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 issued by the SRB.

9. 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.

10. 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. The SRB shall be responsible for maintaining day to day relations with other relevant European authorities, including the ECB and the Commission.

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 NRA competence to contact directly relevant European authorities with regard to entities and groups under direct NRA responsibility.

#### *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>3</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. Resolution plans in connection with entities and groups under direct SRB responsibility shall be drafted in English. Draft decisions and resolution plans of 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.

3. 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

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<sup>3</sup> Council Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).



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 shall 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.

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

5. 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.

## TITLE 2

### **SRB LEGAL INSTRUMENTS AND SRB CONSULTATION OF NRAs**

#### **General principle**

Legal instruments 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 5*

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

1. In accordance with Article 31(1)(a) of the SRM Regulation, the SRB in its Restricted Executive Session may issue guidelines and general instructions to NRAs in respect of tasks performed and resolution decisions to be adopted by the NRAs, after prior consultation of the SRB in its Plenary Session in accordance with paragraph 3.

2. The right of initiative to propose guidelines and general instructions belongs to the SRB and/or any NRA. The SRB shall cooperate closely with the NRAs in the preparation of guidelines and general instructions except in justified urgent circumstances requiring immediate issuance, without prejudice to the procedure in accordance with paragraph 3.

3. The SRB in its Restricted Executive Session shall submit any draft guideline or general instruction to the SRB in its Plenary Session for consultation. The SRB in its Restricted Executive shall issue the guideline or general instruction if a simple majority of the Plenary

Session members supports such issuance. If the Plenary Session does not support the issuance, the Restricted Executive Session withdraws the proposal or may re-submit an amended version of the proposal to the SRB in its Plenary Session for a second consultation.

4. Guidelines and general instructions are not related to a specific entity or group and are not addressed to a specific NRA or group of NRAs. They may relate to tasks of NRAs in connection with entities and groups under direct SRB responsibility and / or under direct NRA responsibility, in order to ensure the effective and consistent functioning of the SRM.

5. While guidelines may be issued to set the operational details as regards the tasks to be performed by the SRB and the NRAs in accordance with the SRM Regulation, general instructions may be adopted to give further details concerning specific tasks provided in the SRM Regulation, SRB decisions and guidelines.

6. Guidelines and general instructions may be issued, in particular, as regards:

- (a) the preparation of resolution plans and group resolution plans;
- (b) measures to address or remove impediments to resolvability;
- (c) determining the MREL;
- (d) any other matter necessary for the effective and consistent performance of the resolution tasks within the SRM.

#### *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.

*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, with 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));
- (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 or the relevant NRA.

2. The SRB shall ensure that the relevant NRAs are consulted at an appropriate 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.

4. Each SRB decision referred to in this Article shall also be communicated to the relevant NRAs.

### TITLE 3

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

##### *Article 10*

##### **General provisions**

1. This Article sets forth the general framework governing the cooperation between the SRB and the NRAs with respect to the implementation by the NRAs, pursuant to Article 29 of the SRM Regulation, of the SRB's decisions addressed to them and the close monitoring by the SRB of the implementation of resolution schemes by the NRAs pursuant to Article 28 of the SRM Regulation.

2. For the purposes of the implementation of the SRB's decisions, 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 the 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.



3. 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.

4. The SRB shall provide the NRAs with all information necessary for implementing SRB decisions. In cases where the NRA identifies information necessary to implement the SRB decision and 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 but will not be less than 5 business days, unless earlier adoption of the measure by the NRA is necessary due to urgency in the circumstances of the case. 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 paragraph 1, the SRB in its Restricted Executive Session may exercise its powers under Article 29(2) SRM Regulation. The SRB shall notify the NRA concerned prior to exercising its powers. The NRAs shall explain in a reasoned statement to the SRB in its Restricted 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 in 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 Restricted Executive Session why they do not comply with the recommendation of the SRB.

#### *Article 14*

### **Monitoring by the SRB of compliance by NRAs with SRB legal instruments**

Without prejudice to Article 15, the SRB shall monitor compliance with its guidelines and general instructions, specific instructions, warnings and recommendations, if appropriate, based on reports from NRAs, in order to ensure that its legal instruments are effectively complied with.

#### *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) 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.

The NRAs involved in the execution of the resolution scheme shall, with the assistance of the relevant IRT if 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.

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* **Entities and groups under the direct responsibility of the SRB**

1. The SRB is 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 this Part III 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 name 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 name 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.
4. The lists referred to in paragraphs 1 and 2 shall be updated on a regular basis.
5. 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, no later than one week prior to the date it assumes responsibility.

*Article 18*

**Beginning of direct SRB responsibility**

1. The SRB in its Restricted Executive Session shall specify in an SRB decision the date on which it assumes direct responsibility of an entity or group. Without prejudice to paragraph 2 and 3, the SRB shall notify that SRB decision to the entity or group concerned as soon as possible.
2. 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 of the 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. The SRB shall notify the SRB decision referred to in paragraph 1 to each entity or group concerned at least one week prior to the date on which it will assume direct responsibility.
3. If the SRB 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 referred to in paragraph 1 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 referred to in paragraph 1 to the relevant NRAs.
5. For the purposes of this Article, in the case of a group, the SRB shall notify the SRB decision to the entity 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 by the relevant deadline.

*Article 19*

**End of direct SRB responsibility**

1. When the SRB determines that its direct responsibility for an entity or group will end, the SRB shall issue a decision to each entity concerned specifying the date and reasons why the SRB's direct responsibility will end. The SRB shall adopt such a decision without undue delay and shall provide a copy of this SRB decision to the relevant NRAs, specifying the resolution tasks performed and powers exercised by the SRB and the current financial situation of the entity or group, accompanied by the relevant documents.

2. 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 of the 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.

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 shall adopt a 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 shall, after consulting the relevant NRAs, adopt a decision ending direct SRB responsibility if direct responsibility is no longer necessary to ensure the consistent application of high resolution standards.

5. 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 previously subject to direct SRB responsibility within that group are duly informed.

*Article 20*

**Change of the status of a group**

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 make 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*

**An SRB decision 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.

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 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, on at least 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 by the SRB are still met. If the NRA is of the view that the direct responsibility by 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 by 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 by 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 this Title.

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 such pending process in accordance with the applicable law, unless the authority assuming direct responsibility objects. The authority whose direct responsibility ends shall consult on its draft decisions the authority assuming direct responsibility prior to taking any action in a process which was pending prior to the change in responsibility. It shall provide to the authority assuming direct responsibility a copy of the decision taken and any relevant documents relating to that decision.

4. In accordance with paragraph 3, the authority assuming direct responsibility, in consultation with the authority whose direct responsibility ends, may decide within one month of receiving the information necessary to complete its assessment of the relevant formally initiated resolution process, to object and take over such process. In such case, it shall notify as soon as possible the authority whose direct responsibility ends and the concerned parties of its decision and the consequences thereof.

5. 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 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.
3. Without prejudice to other provisions of this Decision, the tasks of an IRT shall include, but may not be limited to, the following:
  - (a) assisting in performing the examination 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) assisting in drawing up resolution plans;
  - (c) assisting in applying simplified obligations;
  - (c) assisting in performing the resolvability assessment and determining measures to address or remove impediments to resolvability;
  - (d) assisting in determining the MREL for individual entities and groups;
  - (e) assisting in the preparation of SRB participation in resolution colleges;
  - (f) assisting in monitoring of the compliance of an institution with an early intervention measure;
  - (g) assisting in the preparation of resolution schemes;

- (h) assisting in monitoring the execution of resolution schemes;
- (i) advising the Executive Session on matters within IRTs responsibilities;
- (j) 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;
- (k) cooperating with NRAs where relevant, in particular concerning the activities specified in Part III of this Decision on direct SRB responsibility;
- (l) cooperating with competent authorities and JSTs where relevant;
- (m) any other matter deemed necessary by the SRB and in agreement with the relevant NRAs.

#### *Article 25*

#### **Composition 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 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.
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 the relevant NRAs, may decide to modify the composition 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 composition 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 to 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 relevant NRA shall obtain all information necessary to draw up and implement the resolution plans in accordance with Article 11 and Article 13(1) of the BRRD 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 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 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 shall propose to the SRB 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(3) 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 determines the MREL as referred to in Article 12(1) of the SRM Regulation it 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 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 national law and/or applicable EU law and for the implementation of the 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, 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 that the SRB decides 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 (i) the specific type or types of contractual bail-in instruments that should be issued, (ii) the entity or entities that should issue the instruments, and (iii) 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 that the SRB decides 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**

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 the 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 resolution measures**

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 establishment of the level of 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;
- (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*

**Submission of draft decisions**

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. NRAs shall send draft decisions as referred to in paragraph 1 to the SRB, as a rule, at least 20 business days in advance of the planned date of adoption of the decision. The SRB may express its views on the draft decision within a reasonable time before the planned

adoption of the decision and, in any case, at least 3 business days in advance to a planned adoption.

3. In cases of urgency, NRAs may send draft decisions 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 business 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, and the assessment of the resolvability of an entity or a group.

#### *Article 35*

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

The SRB may request from NRAs on regular or ad hoc basis information on the performance of the tasks carried out by them in respect of entities under their 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 and the representatives of the NRAs that participate in the resolution college shall consult with each other.

*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 representative of the NRA and the SRB shall consult with each other.

*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 Union 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 the NRAs, the NRAs shall participate in the resolution college as members. 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 consult with each other.

#### *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, 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 NRAs shall, in particular during resolution planning, be in charge of requests for information from entities and groups located within their Member States, the entities' employees and third parties to whom those entities and groups have outsourced functions or activities. This shall remain without prejudice to the right of the SRB to require information from legal or natural persons directly in accordance with Article 34 of the SRM Regulation, in particular due to the urgency of the circumstances in the phase of early intervention and resolution of an entity or group and in circumstances mentioned in paragraph 2.

In cases of urgency as referred to above, the SRB shall inform the relevant NRA of its procedural arrangements in advance of the request or, if this is not possible, the SRB shall inform the relevant NRA without delay that such request has been addressed to the entity or group and of its procedural arrangements.

2. The NRA shall immediately submit any information received in accordance with paragraph 1 to the SRB. When the information requested is not provided by the relevant NRA in a timely manner, the SRB may, after informing the relevant NRA, require information from legal or natural persons directly from the entities and groups located within the Member State of the NRA, the entities' employees and third parties to whom those entities and groups have outsourced functions or activities. The SRB shall submit the relevant information received in accordance with this paragraph to the NRA.

3. Following paragraph 1, the relevant sub-coordinator of the IRT shall act as the single point of contact for requests for information from the entities and groups located within its Member State, the entities' employees and third parties to whom those entities have outsourced functions or activities.



Such requests for information shall be made in accordance with instructions given by the IRT coordinator of the IRT in charge of the entity or group concerned, in accordance with national law.

The relevant sub-coordinator shall immediately provide the IRT coordinator with the information requested by the SRB, supplied by these legal or natural persons or already available to them.

#### *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.
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 authorized 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 consult with each other and agree on the use of NRA resources with regard to the on-site inspection teams.
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 and the NCA shall be notified as soon as possible before the start of such on-site inspection.
6. Those carrying out the on-site inspection shall follow the instructions of the head of the on-site inspection team as regards their tasks in the on-site inspection. This shall be without prejudice to their tasks and duties within their respective NRA.
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 entity concerned.

PART VII  
**COOPERATION REGARDING THE SINGLE RESOLUTION FUND**

*Article 42*  
**Cooperation regarding the Single Resolution Fund**

1. Contributions to the Fund 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 Fund in accordance with Article 67 of the SRM Regulation and the Intergovernmental Agreement.

2. The SRB, in close cooperation with the NRAs, shall be responsible for the annual calculation of the individual ex-ante contributions pursuant to Article 70 of the SRM Regulation and of ex-post contributions pursuant to Article 71 of the SRM Regulation.

3. NRAs and the SRB commit to cooperate closely with respect to the aforementioned calculation and collection of contributions as well as concerning any other related tasks regarding the contribution collection process as set out in the SRM Regulation and related legislation<sup>4</sup>.

4. Where necessary, NRAs and the SRB will, as appropriate, discuss and develop further detailed arrangements for the organization and division of tasks between NRAs and SRB, on which the SRB in its Plenary Session will decide.

5. Where necessary, the SRB in close cooperation with the NRAs, will review and adapt the cooperation arrangements regarding the contribution calculation process according to the aforementioned principles and provisions.

## 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.

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<sup>4</sup> In particular: Commission Delegated Regulation (EU) 2015/63 of 21 October 2014 of the European Parliament and of the Council with regard to ex-ante contributions to resolution financing arrangements, Council Implementing Regulation (EU) 2015/81 of 19 December 2014 with regard to ex-ante contributions to the SRF, and the Intergovernmental Agreement on the transfer and mutualisation of contributions to the Single Resolution Fund.

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.

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

*Done at Brussels, on 28 June 2016*

*For the Plenary Session of the Board*



The Chair  
Elke König



