

## Information requirements for applications for permission in line with the draft RTS on own funds and eligible liabilities, Section 2 Subsection 2 – “Permission for reducing eligible liabilities instruments”<sup>1</sup>

1. **Institutions need to provide the SRB with information to support their application.** In order for the SRB to assess if an instrument-by-instrument permission can be granted, institutions should specify the following information in their applications:
  - i. the legal basis for the application<sup>2</sup>;
  - ii. a well-founded explanation of the rationale for performing the redemption in question<sup>3</sup>;
  - iii. Information on current and future<sup>4</sup> requirements for MREL<sup>5</sup>, TLAC<sup>6</sup> and the Combined Buffer Requirement (CBR)<sup>7</sup>;
  - iv. Information on the current and future level<sup>8</sup> and composition of own funds and eligible liabilities that are/will be held to ensure compliance with the requirements in point (iii), both before and after performing the redemption. Depending on the eligible liability instruments to which the permission application pertains, information on the following is required, as applicable:
    - a. the amount of eligible liability instruments that meet all the conditions in Article 72b(2) CRR<sup>9</sup>;
    - b. the amount of senior unsecured liabilities that the SRB has permitted the institution to qualify as eligible liability instruments for TLAC<sup>10</sup>;
    - c. the amount of senior unsecured liabilities for MREL<sup>11</sup>;
    - d. the amount of liabilities that arise from debt instruments with embedded derivatives<sup>12</sup>;
    - e. the amount of liabilities issued by a subsidiary to an external shareholder that count towards the external requirement<sup>13</sup>;
    - f. the amount of internal MREL eligible liability instruments and internal TLAC eligible liability instruments, where applicable;<sup>14</sup>

<sup>1</sup> This publication is not intended to create any legally binding effect and does not in any way substitute the legal requirements laid down in the relevant applicable European Union and national laws. It may not be relied upon for any legal purposes, does not establish any binding interpretation of EU or national laws and does not serve as, or substitute for, legal advice. This document may be subject to further revisions, including due to changes in the applicable EU legislation. The SRB reserves the right to amend this publication without notice whenever it deems appropriate, and it shall not be considered as predetermining the position that the SRB may take in specific cases, where the circumstances of each case will also be considered.

<sup>2</sup> Article 32d(1)(b) DR.

<sup>3</sup> Article 32d(1)(a) RTS.

<sup>4</sup> Covering at least a three year period.

<sup>5</sup> External and internal MREL in TREA and LRE.

<sup>6</sup> External and internal TLAC in TREA and LRE.

<sup>7</sup> Article 32d(1)(c) RTS. The CBR refers to point (6) of Article 128 of Directive 2013/36/EU (CRD IV).

<sup>8</sup> Covering at least a three year period.

<sup>9</sup> Article 32d(1)(d)(i) RTS. For the MREL purposes this only relates to subordinated eligible liability instruments.

<sup>10</sup> Article 32d(1)(d)(ii) RTS. Note this is only relevant for institutions with a TLAC requirement.

<sup>11</sup> Article 32d(1)(d)(iii) RTS. See Article 12c(1)(b) SRMR.

<sup>12</sup> Article 32d(1)(d)(iv) RTS. For MREL purposes only as per Article 12c(2) SRMR.

<sup>13</sup> Article 32d(1)(d)(v) RTS. For MREL purposes as per Article 12c(3) SRMR. For TLAC purposes as per Article 88a CRR.

<sup>14</sup> Article 32d(1)(d)(vi) RTS. For internal MREL purposes as per Article 12g2 SRMR. For internal TLAC purposes as per Article 92b(3) CRR.

- v. A summary assessment on the impact of the redemptions and any additional action envisaged on the applicable MREL, TLAC and CBR requirements covering a three year period<sup>15</sup>;
  - vi. An evaluation of the risks which the institution is or might be exposed to, including whether the institution's level of MREL ensures an appropriate coverage of such risks, including outcomes of stress tests on main risks evidencing potential losses<sup>16</sup>; and
  - vii. Any additional information the SRB deems necessary for the assessment process<sup>17</sup>.
2. **Additional information is needed for a permission application for a replacement of eligible liability instruments**<sup>18</sup>. The SRB also needs to receive information<sup>19</sup> on the following: (i) the residual maturity of the replaced instrument and the maturity of the replacement instrument; (ii) the ranking in the creditor hierarchy for both the replaced and replacement instrument; (iii) the cost of the replacement instrument; (iv) the planned timing of the issuance of the replacement instrument; and (v) the impact of the replacement instrument on the profitability of the institution<sup>20</sup>.
3. **Where permission is sought to replace eligible liability instruments with own funds instruments additional information is required.** The institution needs to provide the SRB with a demonstration that the partial or full replacement of the eligible liability instruments with own funds instruments is necessary to ensure compliance with own funds requirements laid down in the CRR and Directive 2013/36/EU<sup>21</sup> as revised by Directive (EU) 2019/878<sup>22</sup> for continued authorisation<sup>23</sup>.
4. **Specific information is required for the SRB to assess if a GPP should be granted.** The information requirements listed in paragraph 1 should be provided to the SRB when applying for a GPP. Additionally, institutions should provide information<sup>24</sup> on: (i) the total amount of outstanding eligible liability instruments including eligible liability instruments issued by a subsidiary to an external shareholder<sup>25</sup>; and (ii) eligible liability instruments still to be issued. For the purposes of point (ii), eligible liabilities instruments still to be issued may be included, subject to specification of the final amount referred to in (i), to be provided to the SRB following the relevant issuance.

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<sup>15</sup> Article 32d(1)(e) RTS.

<sup>16</sup> Article 32d(1)(g) RTS.

<sup>17</sup> Article 32d(1)(i) RTS.

<sup>18</sup> Article 78a(1)(a) CRR.

<sup>19</sup> Article 32d(1)(f) RTS.

<sup>20</sup> In line with the definition in Article 32a of the Delegated Regulation on the meaning of sustainable for the income capacity of the institution.

<sup>21</sup> Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, OJ L 176, 27.6.2013, p. 338–436.

<sup>22</sup> Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures, OJ L 150, 7.6.2019, p. 253–295.

<sup>23</sup> Article 32d(1)(h) RTS.

<sup>24</sup> Article 32e(2) RTS.

<sup>25</sup> For TLAC purposes as per Article 88a CRR and for MREL purposes as per Article 12c(3) SRMR.