Checklist for reporting eligible liabilities

***To be completed by the institution's reporting officer*[1]**

Where relevant, liabilities reported under Commission Implementing Regulation (EU) 2021/763[2] meet the following conditions:

Liabilities issued directly or raised by the resolution entity	
☐	Liabilities in field "0100 tab M02.00 TLAC1" are directly issued or raised by the resolution entity[3] in compliance with Article 72b(2)(a) of Regulation (EU) No 575/2013 amended by Regulation (EU) 2019/876 and Article 12c(1) of Regulation (EU) No 806/2014 as amended by Regulation (EU) 2019/877.
Liabilities issued by non-resolution entities	
☐	Liabilities reported in fields "0110 tab M02.00 TLAC1 and 0330, 0430, 0530, 0630, 0730 and 0830 tab M04.00 LIAB MREL" are issued by non-resolution entities only within the limits of Article 88a of Regulation (EU) No 575/2013 amended by Regulation (EU) 2019/876 and Article 12c(3) of Regulation (EU) No 806/2014 as amended by Regulation (EU) 2019/877.
Liabilities owned by an undertaking in which the resolution entity has an ownership stake	
☐	With the exception of liabilities issued prior to 27 June 2019 (grandfathered), liabilities reported in fields "0100" tab M02.00 TLAC1 are owned by an undertaking outside the resolution group in which the resolution entity has a direct or indirect participation in the form of ownership, direct or by way of control, of less than 20% of the voting rights or capital of that undertaking in accordance with Article 72b(2)(b)(ii) of Regulation (EU) No 575/2013 amended by Regulation (EU) 2019/876.
Non-covered non-preferred[4] deposits:	
☐	Non-covered non-preferred deposits with a residual maturity of more than one year[5] reported in field "0200 tab M04.00 LIAB MREL" that: (i) do not contain a contractual provision

[1] The checklist for Reporting Eligible Liabilities is only intended to serve as a guide supporting banks when filling out the quarterly reporting. It should not be submitted to NRAs.
[2] https://eur-lex.europa.eu/eli/reg_impl/2021/763
[3] Or entities since more than one resolution entity could exist for cooperative networks.
[4] Deposits, not covered and not preferential, as defined for the purposes of row 0320 of template Z 02.00 of Annex I to Commission Implementing Regulation (EU) 2018/1624, that are eligible for the purposes of Articles 45 Directive 2014/59/EU.
[5] Article 72a(2)(b) of Regulation (EU) No 575/2013 amended by Regulation (EU) 2019/876 provides that sight deposits and short term deposits with an original maturity of less than one year are excluded from qualifying as eligible liabilities.

	conferring upon the owner the right to early reimbursement with less than one year's notice, irrespective of any penalty for early withdrawal; and ii) are not subject to set-off or netting arrangements that would undermine their capacity to absorb losses in resolution.
Liabilities that arise from debt instruments with embedded derivatives, such as structured notes	
☐ (a) ☐ (b)	Liabilities that arise from debt instruments with embedded derivatives, such as structured notes under Article 12c(2) of Regulation (EU) No 806/2014 as amended by Regulation (EU) 2019/877 that are reported in field "0400 tab M04.00 LIAB MREL" are not subject to any netting arrangements and one of the following conditions is met: • The principal amount of the debt instrument is fixed or increasing, and is not affected by an embedded derivative feature, and the total amount of the liability arising from the debt instrument, including the embedded derivative, can be valued on a daily basis by reference to an active and liquid two-way market for an equivalent instrument without credit risk, in accordance with Articles 104 and 105 of Regulation (EU) No 575/2013; or • The debt instrument includes a contractual term that provides the value of the claim in cases of the insolvency of the issuer and of the resolution of the issuer. This value is fixed or increasing and does not exceed the initially paid-up amount of the liability.
Liabilities governed by third country law	

☐ (i only)
☐ (i and ii(a))
☐ (i and ii(b))
☐ (i and ii(a) and (b))
	Liabilities governed by third country law issued after [insert the date of transposition of application of Article 55 of Directive 2014/59/EU into national law] reported in under Commission Implementing Regulation (EU) 2021/763 include:
	• a contractual recognition clause in compliance with the requirements of Article 55(1) of Directive 2014/59/EU as amended by Directive (EU) 2019/879 and Article 44 of Commission Delegated Regulation (EU) 2016/1075; and
	• an accompanying legal opinion[6] corresponding to at least one of the below:
	    • From 1 January 2016 to 15 January 2019, as per Article 55(1) third subparagraph of Directive 2014/59/EU;
	    • From 16 January 2019, as per Article 55(1) third subparagraph of Directive 2014/59/EU[7] and meeting the minimum requirements defined in Annex 1 of the 2018 SRB MREL Policy for the Second Wave of Resolution Plans[8] or the minimum criteria in Box 2 of the SRB MREL Policy under the Banking Package[9].

Subordination criteria for liabilities eligible for internal MREL	
☐	Liabilities reported in fields "0260 tab M03.00 iLAC" rank in normal insolvency proceedings under [insert national law] below both liabilities excluded from eligible liabilities under Article 72a(2) of Regulation (EU) No 575/2013 as amended by Regulation (EU) 2019/876 and below

[6] If required by the SRB.
[7] Updated by Article 55(3) of Directive 2014/59/EU as amended by Directive 2019/879.
[8] https://srb.europa.eu/sites/srbsite/files/public_mrel_policy_2018_-_second_wave_of_plans.pdf
[9] https://www.srb.europa.eu/system/files/media/document/mrel_policy_may_2021_final_web.pdf

	all liabilities issued externally in order to meet the requirements of Articles 12g(2)(a)(iii) of Regulation (EU) No 806/2014 as amended by Regulation (EU) 2019/877.
Absence of effect of the write-down or conversion of liabilities eligible for internal MREL liabilities on the scope of consolidation	
☐	For liabilities eligible for internal MREL a simulation has been carried out on whether the write down and conversion under Article 21 of Regulation (EU) No 806/2014 as amended by Regulation (EU) 2019/877 would cause changes to the scope of consolidation, in accordance with Appendix I. Liabilities reported in "tab M03.00 iLAC" meet the requirement set out in Article 12g(2)(a)(iv) of Regulation (EU) No 806/2014 as amended by Regulation 2019/877 since this simulation has evidenced that no deconsolidation would take place.

Disclaimer: This document does not exhaustively list all statutory conditions governing the eligibility of own funds and eligible liabilities; please refer in particular for external MREL to points (a)(ii) and (c) to (n) of Article 72b(2) CRR and for internal MREL to points (i) to (ii) and (v) to (viii) of Article 12g(2)(a) SRMR. Grandfathering for certain eligibility conditions is introduced in the CRR[10]. As a result, issuances of liabilities prior to the entry into force of the CRR[11] are eligible for MREL, despite not meeting some of the criteria in the CRR[12].

Appendix I – Simulation on changes to scope of consolidation post WDC

For determining whether a subsidiary would be deconsolidated following write down and conversion (WDC), a simulation should be carried out on the impact of WDC on consolidation. The simulation should be conducted applying national civil and corporate laws, principles and case-law governing corporate ownership and changes hereto. The assumptions applicable to this simulation shall be defined as:

Loss scenario: Assume a loss equal to overall Capital Requirements of the subsidiary determined by the following formula:

Maximum [(Supervisory Pillar 1 + Pillar 2 + CBR) * TREA; 3% LRE]

This is applicable at the relevant level of consolidation of the entity (individual or consolidated) and the instruments are written down in compliance with the applicable national insolvency hierarchy, starting from the most junior class of instruments (CET1). To do this, the applicable insolvency hierarchy should be followed.

Recapitalisation scenario: After the simulation of the write-down, a conversion of instruments equal to the recapitalisation amount (RCA) should be carried out, where applicable, starting from the class of instruments that have a residual amount after the write-down in the loss-scenario. The RCA shall be assumed to be equal to:

Maximum [(Supervisory Pillar 1 + Pillar 2) * TREA; 3% LRE]
Or, where applicable: the RCA determined by the SRB applying at the reference date.

[10] Article 494b(3) CRR.
[11] 27 June 2019.
[12] The criteria that do not need to be met prior to 27 June 2019 include: Article 72b(2)(b)(ii) and Articles 72b(2)(f-m).