Text consolidated by Valsts valodas centrs (State Language Centre) with amending laws of:

16 February 2017 [shall come into force on 17 March 2017];

28 February 2019 [shall come into force on 28 March 2019];

23 September 2021 [shall come into force on 20 October 2021];

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28 April 2022 [shall come into force on 31 May 2022].

If a whole or part of a section has been amended, the date of the amending law appears in square brackets at the end of the section. If a whole section, paragraph or clause has been deleted, the date of the deletion appears in square brackets beside the deleted section, paragraph or clause.

The *Saeima*1 has adopted and

and the President has proclaimed the following Law:

**Law on Recovery of Activities and Resolution of Credit Institutions and Investment Firms**

**Chapter I**

**General Provisions**

**Section 1.** (1) The following terms are used in this Law:

1) [16 February 2011];

2) **asset separation tool**– the mechanism for effecting a transfer by a resolution authority of assets, rights, and liabilities of an institution under resolution to an asset management company;

3) **asset management company**– a legal person in which a qualifying holding is held by one or several direct or indirect administration authorities and which is under control of the Financial and Capital Market Commission and has been established in order to obtain and hold assets, rights, or liabilities of one or several institutions under resolution or a bridge institution;

4) **eligible liabilities**– bail-inable liabilities that meet the conditions of Section 59.1 or Section 61, Paragraph six, Clause 1 of this Law and Tier 2 instruments of a residual maturity of at least one year to the extent they do not qualify as Tier 2 items in accordance with Article 64 of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (Text with EEA relevance) (hereinafter – Regulation No 575/2013);

5) **recovery capacity**– the capability of an institution to restore its financial position following a significant deterioration;

6) **emergency liquidity assistance**– funds provided by the central bank of the Member State or the European Central Bank to a solvent institution or financial company facing temporary liquidity problems. The assistance referred to in this Clause is not a part of the monetary policy;

7) **relevant capital instruments**– Additional Tier 1 instruments or Tier 2 instruments;

8) **foreign institution**– a company the headquarters of which is located outside the Member State and which, if it would perform commercial activity in the European Union, would be regarded to be an institution within the meaning of this Law;

9) **foreign parent company**– a parent company, a parent financial holding company, or a parent mixed financial holding company which performs commercial activity abroad;

10) **foreign resolution procedure**– an action that is performed under the law of a foreign country to manage the insolvency of a foreign institution or a foreign parent company and that is comparable, in terms of objectives and anticipated results, to the resolution actions specified in this Law;

11) **central bank facilities**– financial assistance provided to an institution or financial company within the framework of the monetary policy of the central bank of the Member State;

12) **European Union parent company**– a European Union parent institution, a European Union parent financial holding company, or a European Union parent mixed financial holding company;

13) **European Union subsidiary**– an institution which performs commercial activity in a Member State and which is a subsidiary of a foreign institution or a foreign parent company;

14) **financial contracts** include the following:

a) contracts for securities, including contracts for the disposing of securities, a group of securities, or an index of securities and options;

b) commodity contracts, including contracts for the disposing of commodities for future delivery and options;

c) futures and forwards for the disposing of any other commodity, property, service, right for a specified price at a future date;

d) swap agreements, options relating to interest rates, foreign exchange agreements, such derivative agreements which are related to climate change, and also any agreement or transaction similar to the contracts referred to in this Sub-clause;

e) inter-bank borrowing agreements where the term of the borrowing is up to three months;

f) master agreements for any of the contracts or agreements referred to in Sub-clauses “a”, “b”, “c”, “d”, and “e” of this Clause;

15) **core business lines**– business lines and associated services which represent material sources of revenue, profit, or franchise value for an institution or for a group;

16) **group**– a parent company and its subsidiaries;

17) **group financing arrangement**– a financing arrangement or arrangements of the Member State of the group-level resolution authority;

18) **group-level resolution authority**– the resolution authority in the Member State in which the consolidating supervisor is situated;

19) **group resolution plan**– a plan which is developed for group resolution;

20) **group resolution**– either of the following:

a) the taking of resolution action at the level of a parent company or of an institution subject to consolidated supervision;

b) the coordination of the application of resolution tools and the implementation of resolution powers by resolution authorities in relation to group companies that meet the conditions for resolution;

21) **group company**– a legal person which is within the group;

22) **bail-in tool**– the mechanism for effecting the implementation by a resolution authority of the write-down and conversion powers in relation to liabilities of an institution under resolution;

221) **bail-inable liabilities**– the liabilities and capital instruments that do not qualify as Common Equity Tier 1, Additional Tier 1, or Tier 2 instruments and that are not excluded from the scope of application of the bail-in tool of the institution or the financial company referred to in Section 2, Paragraph two, Clause 2, 3, or 4 of this Law (hereinafter also – the institution or financial company);

23) **institution**– a credit institution or an investment firm which meets the requirements of Section 6, Paragraph one, Clause 1 or 2 of the Law on Investment Firms;

24) **termination right**– a right to terminate a contract, a right to accelerate, set-off, or net obligations or any similar provision that suspends, modifies, or extinguishes an obligation of a party to the contract or a provision that prevents an obligation under the contract;

25) **instruments of ownership**– shares, instruments that confer ownership, instruments that are convertible into or give the right to acquire shares or other instruments of ownership, and instruments representing interests in shares or other instruments of ownership;

26) **conversion rate**– the factor that determines the number of shares or other instruments of ownership into which a liability of a specific class will be converted, by reference either to a single instrument of the class in question or to a specified unit of value of a debt claim;

261) **combined buffer requirement**– the total Common Equity Tier 1 required to fulfil the requirement for the capital conservation buffer that is extended by the following, as applicable:

a) an institution-specific countercyclical capital buffer;

b) a global systemically important institution buffer;

c) a buffer of other systemically important institution;

d) a systemic risk buffer;

27) **critical functions**– activities or services the discontinuance of which in one or more Member States could lead to the disruption of provision of services that are essential to the national economy or to disrupt financial stability due to the size, market share, external and internal interconnectedness, complexity or cross-border activities of an institution or group, with particular regard to the substitutability of those activities or services;

28) **crisis prevention measure**– the implementation of rights to eliminate deficiencies or impediments to performance of resolution actions, the application of an early intervention measure, the appointment of a temporary administrator, or the implementation of the write-down or conversion powers;

29) **crisis management measure**– a resolution action or the appointment of a special manager or an authorised representative;

30) **contractual bail-in tool**– an instrument which in conformity with the terms of the contract is written down or converted to the extent required before other eligible liabilities are written down or converted, and in the case of insolvency proceedings it ranks below other eligible liabilities and cannot be repaid until other eligible liabilities outstanding at the time have been settled;

311) **subsidiary**– a subsidiary undertaking within the meaning of Article 4(1)(16) of Regulation No 575/2013. In order to apply requirements of this Law to resolution groups, a subsidiary shall also mean a credit institution permanently affiliated to a central body, the central body itself, and its relevant subsidiaries taking into account the manner in which the resolution groups ensure fulfilment of Section 60.2, Paragraph three of this Law;

31) **winding up**– the realisation of assets of an institution or financial company;

32) **micro, small and medium-sized enterprise**– a commercial company in conformity with the criterion with regard to annual turnover arising from annual financial statement of the company used in Annex I to Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (Text with EEA relevance) (hereinafter – Regulation No 651/2014);

321) **national resolution fund**– the fund the means of which is comprised of the contributions made and accumulated by institutions;

33) **transfer powers**– the powers to transfer shares, other instruments of ownership, debt instruments, assets, rights or liabilities of an institution under resolution, or any combination of those items to a recipient;

34) **secured liabilities**– a liability where the right of the creditor to payment or other form of enforcement is secured by a charge, pledge or lien, or collateral arrangements including liabilities arising from repurchase transactions and other title transfer collateral arrangements;

35) **write-down and conversion powers**– the powers to perform activities which are directed towards the reduction of the relevant capital instruments or eligible liabilities or the conversion thereof into capital instruments or other instruments of ownership in accordance with the procedures laid down in this Law;

36) **resolution action**– a decision to place an institution or financial company under resolution, the application of a resolution tool, or the implementation of one or more resolution powers;

37) **resolution authority**– the Financial and Capital Market Commission or the resolution authority of another Member State which is authorised to apply resolution tools and to implement resolution powers;

371) **resolution entity**:

a) a legal person that performs commercial activity in the European Union and that has been assessed by the resolution authority as an entity for which resolution action is envisaged in the resolution plan;

b) an institution which is not part of a group subject to consolidated supervision and for which resolution action is envisaged in the resolution plan;

372) **resolution group**:

a) a resolution entity and its subsidiaries which are not resolution entities or subsidiaries of other resolution entities, or which are not resolution entities and their subsidiaries that perform commercial activity abroad and that have not been included in the resolution group according to the resolution plan;

b) credit institutions permanently affiliated to a central body and the central body itself if at least one of the credit institutions or the central body and its subsidiaries are resolution entities;

38) **conditions for resolution**– the conditions referred to in this Law for the performance of resolution action;

381) **resolution plan**– a plan in which resolution actions are provided for which are applied to an institution or financial company if it conforms to the resolution conditions;

39) **institution under resolution**– an institution, a financial institution, a financial holding company, a mixed financial holding company, a mixed-activity holding company, a parent financial holding company in a Member State, a European Union parent financial holding company, a parent mixed financial holding company in a Member State, or a European Union parent mixed financial holding company, in respect of which a resolution action is taken;

40) **resolution**– the application of a resolution tool in order to achieve one or more of the resolution objectives referred to in this Law;

41) **significant branch**– a branch the activity of which in a Member State is considered to be significant in a financial market;

42) **bridge institution tool**– the mechanism for transferring shares or other instruments of ownership issued by an institution under resolution or assets, rights, or liabilities of an institution under resolution to a bridge institution;

43) **debt instruments**– bonds and other transferable securities, instruments creating or acknowledging a debt, and instruments giving the right to acquire debt instruments, including the claims referred to in Section 139.3of the Credit Institution Law and Section 82 of the Law on Investment Firms arising from the issued debt securities;

44) **cross-border group**– a group having group companies which are performing commercial activity in more than one Member State;

441) **Common Equity Tier 1**– capital calculated in accordance with Article 50 of Regulation No 575/2013;

45) **recipient**– the company to which shares, other instruments of ownership, debt instruments, assets, rights or liabilities, or any combination of those items are transferred from an institution under resolution;

46) [30 September 2021];

47) **set-off arrangement**– an arrangement under which two or more claims or obligations owed between the institution under resolution and a counterparty can be set off against each other;

48) **systemic crisis**– a disruption in the financial system with the potential to have serious negative consequences for the national economy;

481) **subordinated eligible instruments**– instruments that meet all the conditions referred to in Article 72(a) of Regulation No 575/2013, except for the conditions in respect of Article 72(b)(3), (4), and (5);

49) **sale of business tool**– a mechanism for effecting a transfer by a resolution authority of shares or other instruments of ownership issued by an institution under resolution, or assets, rights, or liabilities, of an institution under resolution to a purchaser that is not a bridge institution;

50) **State aid**– aid to commercial activity within the meaning of the Law on Control of Aid for Commercial Activity;

51) **legal framework of State aid**– legal framework within the meaning of Section 4 of the Law on Control of Aid for Commercial Activity;

52) **single resolution**– the mandate of the Single Resolution Board to develop a resolution plan and to take the decision to apply resolution actions in respect of the subjects referred to in Article 7(2) and (5) of Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (Text with EEA relevance) (hereinafter – Regulation No 806/2014);

53) **Single Resolution Fund**– the Fund the funds of which are established by the contributions of the national resolution funds of the Member States and the funds of which are used by the Single Resolution Board in accordance with Article 76 of Regulation No 806/2014;

54) **Single Resolution Board**– the authority which is established as a European Union agency in accordance with Article 42 of Regulation No 806/2014.

(11) The term “close-out netting” used in the Law corresponds to the term used in the Law on Close-out Netting Applicable to Qualified Financial Transactions.

(2) Other terms used in the Law correspond to the terms used in Regulation No 575/2013, Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (Text with EEA relevance) (hereinafter – Regulation No 648/2012), and Regulation No 806/2014.

[*16 February 2017; 28 February 2019; 30 September 2021; 30 September 2021; 28 April 2022 / Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraphs 4 and 13 of Transitional Provisions*]

**Section 2.** (1) The purpose of this Law is to ensure that the application of recovery and resolution measures to institutions, financial companies, and central counterparties promote stable operation of the financial system, and also to protect the interests of investors and to reduce the possibility to use the State budget funds for saving institutions, financial companies, and central counterparties.

(2) This Law prescribes the application of recovery measures and resolution actions to:

1) the institutions for which a resolution plan is not drawn up and the decision to apply a resolution action within the framework of single sesolution is not taken;

2) the financial institutions which are credit institutions, investment firms, or subsidiaries of the companies referred to in Clauses 3 and 4 of this Paragraph if consolidated supervision of the parent company applies to such subsidiaries in accordance with Regulation No 575/2013;

3) the financial holding companies, mixed financial holding companies, and mixed-activity holding companies registered in the European Union;

4) the parent financial holding companies in the Republic of Latvia, European Union parent financial holding companies registered in the Republic of Latvia, parent mixed financial holding companies in the Republic of Latvia, and European Union parent mixed financial holding companies registered in the Republic of Latvia;

5) the branches of foreign institutions in the Republic of Latvia in the cases provided for in this Law;

6) the central counterparties.

(21) In addition to that specified in Paragraph two of this Section, this Law provides for the procedures by which the Financial and Capital Market Commission shall participate in the single resolution and provide the information to the Single Resolution Board necessary for the development of the resolution plan and for the taking the decision to apply the resolution actions within the framework of single resolution, and implement the decisions taken by the Single Resolution Board.

(3) In applying this Law, the Financial and Capital Market Commission shall take into account the nature, scope of commercial activity, the composition of stockholders or shareholders, the legal form, risk profile, field of activity, and complexity of the institutions and financial companies referred to in Paragraph two of this Section, and their significance in the financial system.

(4) The Credit Institution Law and the Law on Investment Firms shall be also applied to the institution, financial company, or central counterparty to which this Law is applied in the case when recovery measures and resolution actions are carried out in respect of it, insofar as it has not been laid down otherwise in Regulation No 806/2014, Regulation (EU) 2021/23 of the European Parliament and of the Council of 16 December 2020 on a framework for the recovery and resolution of central counterparties and amending Regulations (EU) No 1095/2010, (EU) No 648/2012, (EU) No 600/2014, (EU) No 806/2014 and (EU) 2015/2365 and Directives 2002/47/EC, 2004/25/EC, 2007/36/EC, 2014/59/EU and (EU) 2017/1132, and in this Law.

[*16 February 2017; 30 September 2021; 28 April 2022* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraphs 4 and 13 of Transitional Provisions*]

**Section 3.** (1) A resolution plan shall be developed, the decision to apply recovery measures and resolution actions to the subjects referred to in Section 2, Paragraph two of this Law, and its enforcement in the Republic of Latvia shall be carried out by the Financial and Capital Market Commission, taking into account the requirements of this Law, the regulatory provisions issued by the Financial and Capital Market Commission, Regulation No 806/2014, and other directly applicable legal acts of the European Union, and also in conformity with the guidelines issued by the European Banking Authority.

(2) In taking decisions in accordance with this Law, the Financial and Capital Market Commission shall take into account the possible influence of insolvency in all Member States in which the relevant institution or group is operating, and shall reduce adverse effect on the financial stability of these countries.

(3) The Financial and Capital Market Commission shall inform the Ministry of Finance and Latvijas Banka of decisions which it plans to take in accordance with this Law, and shall receive:

1) agreement of the Ministry of Finance before taking of such decisions which have a direct fiscal impact;

2) agreement of Latvijas Banka before taking of such decisions in the case of taking of which systemic crisis could arise.

(4) The Financial and Capital Market Commission has the right to issue regulatory provisions in accordance with the purpose of this Law and the field of activity and in conformity with the guidelines issued by the European Banking Authority.

[*16 February 2017*]

**Section 4.** (1) Taking into account the impact that the potential insolvency of the institution and the nature, scope of its commercial activity, the composition of stockholders or shareholders, its legal form, risk profile, and significance in the financial system in general could have on financial markets, institutions, financing conditions, or national economy, the Financial and Capital Market Commission is entitled, according to its competence, to determine reliefs for the following requirements:

1) the contents of recovery and resolution plans and the frequency of updating thereof;

2) the contents of the information to be requested from institutions;

3) the level of detail for the assessment of resolvability provided for in this Law.

(2) In exercising the right referred to in Paragraph one of this Section, the Financial and Capital Market Commission shall, where necessary, consult with Latvijas Banka.

(3) Institutions subject to direct supervision by the European Central Bank in accordance with to Article 6(4) of Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions or constituting a significant share in the financial system shall draw up their own recovery plans and individual resolution plans shall be applied thereto.

(4) The institution shall be considered to constitute a significant share of the financial system if any of the following conditions is met:

1) the total value of the assets of the institution exceeds EUR 30 000 000 000;

2) the ratio of the total assets of the institution over the gross domestic product of the State exceeds 20 per cent, unless the total value of its assets is below EUR 5 000 000 000.

[*16 February 2017*]

**Chapter II**

**Recovery Plans**

**Section 5.** (1) Each institution that is not part of a group subject to consolidated supervision shall draw up and maintain a recovery plan specifying measures to be taken by the institution to restore its financial position following a significant deterioration thereof. The recovery plans shall be regarded as one of the key elements of the internal control system within the meaning of Section 34.1 of the Credit Institution Law and Section 31, Paragraph one, Clause 14 and Paragraph four of the Law on Investment Firms.

(2) A recovery plan of the institution shall be submitted to the Financial and Capital Market Commission.

(3) Institutions shall review their recovery plan at least once a year or after such changes in the legal form or organisational structure of the institution, its commercial activity or financial position which could have a material effect on, or necessitates a change in, the recovery plan.

(4) A recovery plan shall be drawn up without providing for the receipt of State aid therein.

(5) Upon request of the Financial and Capital Market Commission, a recovery plan shall include an analysis of how and when an institution may apply, in the conditions described in the plan, for the use of central bank facilities and shall identify those assets which would be expected to qualify as collateral.

(6) In addition to the requirements laid down in the directly applicable legal acts of the European Union, the Financial and Capital Market Commission shall determine the contents of information to be included in a recovery plan and the procedures for the submission of such plan.

(7) The institution shall include the information on the indicators of the financial position of the institution in the recovery plan upon setting in of which the corresponding recovery actions shall be performed in the plan. The institution shall ensure regular supervision and control of the abovementioned indicators.

(8) [16 February 2017]

(9) The institution shall immediately notify the Financial and Capital Market Commission of the decision to take the measure referred to in the recovery plan.

[*16 February 2017; 28 February 2019; 28 April 2022* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraphs 4 and 13 of Transitional Provisions*]

**Section 6.** (1) The Financial and Capital Market Commission shall, within six months after receipt of a recovery plan, and after consulting with the supervisory authorities of the Member States where significant branches are located, assess the submitted recovery plan, taking into account whether:

1) the implementation of the intended measures is likely to maintain or restore the financial stability of the relevant institution or the group;

2) the intended solutions can be quickly and efficiently implemented, preventing any significant adverse effect on the financial system.

(2) When assessing the conformity of the recovery plan, the Financial and Capital Market Commission shall take into account the capital structure and financing sources of the institution, the organisational structure and the level of complexity of the risk profile of the institution.

(3) When assessing the recovery plan, the Financial and Capital Market Commission shall examine whether all those measures which can adversely affect the resolvability of the institution are indicated in this plan.

(4) If, upon assessing the recovery plan, the Financial and Capital Market Commission establishes that there are material deficiencies therein, it shall notify the relevant institution or the parent company of the relevant group and require the institution to eliminate the established deficiencies within two months. The Financial and Capital Market Commission is entitled to extend the abovementioned time period for one month.

(5) If the Financial and Capital Market Commission does not consider that the established deficiencies have been eliminated in the revised recovery plan, it may order the institution to make repeated revisions to the plan.

(6) If the institution fails to submit a revised recovery plan or if the Financial and Capital Market Commission establishes that the revised recovery plan does not adequately eliminate the deficiencies indicated in its original assessment, or the institution is not capable of adequately eliminating the established deficiencies, the Financial and Capital Market Commission shall request the institution to provide, within a reasonable time period, information on changes it can make to its commercial activity.

(7) If the institution fails to submit such changes within the time period stipulated by the Financial and Capital Market Commission or if the Financial and Capital Market Commission establishes that the actions proposed by the institution would not adequately eliminate the established deficiencies, the Financial and Capital Market Commission is entitled to order the institution to take such measures which are considered by the Financial and Capital Market Commission as necessary and commensurate, taking into account the seriousness of the relevant deficiencies and the effect of the measures on the commercial activity of the institution.

(8) The Financial and Capital Market Commission is additionally entitled to request he institution to take one or more of the following measures:

1) to reduce the risk profile of the institution, including liquidity risk;

2) to ensure the possibility to implement recapitalisation measures in a timely manner;

3) to review the strategy and structure of the institution;

4) to make amendments to the funding strategy so as to improve the resilience of the core business lines and critical functions;

5) to make changes in the organisational structure of the institution.

[*16 February 2017*]

**Section 7.** (1) If an institution registered in the Republic of Latvia is a European Union parent company, it shall draw up a group recovery plan and submit it to the Financial and Capital Market Commission. The group recovery plan shall include a recovery plan for the whole group headed by the European Union parent company registered in the Republic of Latvia at large. The group recovery plan shall determine measures the implementation of which may be required at the level of the European Union parent company registered in the Republic of Latvia and each individual subsidiary.

(2) The Financial and Capital Market Commission is entitled to request that subsidiaries draw up and submit individual recovery plans.

(3) The Financial and Capital Market Commission shall send the group recovery plan to:

1) the supervisory authorities of group companies and college of supervisors;

2) the supervisory authorities in those Member States where significant branches are located insofar as the recovery plan applies to the abovementioned branch;

3) the resolution authorities of subsidiaries.

(4) The group recovery plan shall aim to achieve the stabilisation of the group as a whole or any institution of the group, if it is in financial difficulties, so as to remove the causes of the distress and to restore the stability of the financial position of the group or the relevant institution, concurrently taking into account the financial position of other group companies.

(5) The group recovery plan shall include arrangements to ensure the coordination and consistency of the measures to be taken at the level of the European Union parent company registered in the Republic of Latvia, at the level of the companies referred to in Section 2, Paragraph two, Clauses 3 and 4 of this Law, and also the measures to be taken at the level of subsidiaries and significant branches.

(6) The group recovery plan and individual plans of subsidiaries shall include the requirements laid down in Section 5 of this Law, and also arrangements for intra-group financial support adopted in accordance with an agreement for intra-group financial support if such are intended.

(7) The group recovery plan shall include several recovery scenarios.

(8) For each of the scenarios, the group recovery plan shall determine whether there are obstacles to the implementation of recovery measures within the group, including at the level of individual companies covered by the plan, and whether there are substantial practical or legal impediments to the prompt transfer of own funds or the repayment of liabilities or assets within the group.

[*16 February 2017*]

**Section 8.** (1) The Financial and Capital Market Commission shall review the group recovery plan of a European Union parent company registered in the Republic of Latvia and assess its conformity with the requirements laid down for individual recovery plans together with a college of supervisors and supervisory authorities of significant branches insofar as it applies to the particular significant branch. That review and conformity assessment shall be performed in accordance with the procedure specified for the recovery plans of the institutions not included in the group, taking into account the potential impact of the recovery measures on financial stability in all the Member States where the group operates.

(2) The Financial and Capital Market Commission and the supervisory authorities of subsidiaries shall, upon joint consulting and harmonisation of opinions, take a joint decision (hereinafter – the joint decision) on:

1) the review and assessment of the group recovery plan;

2) the necessity to develop an individual recovery plan for institutions that are part of the group;

3) the application of the measures specified in Section 6 of this Law.

(3) The involved supervisory authorities shall take the joint decision within four months of the day when the Financial and Capital Market Commission has sent the group recovery plan to them.

(4) If the supervisory authority does not take the joint decision in relation to the review and assessment of the group recovery plan or on any measures that the European Union parent company registered in the Republic of Latvia is required to take, the Financial and Capital Market Commission shall take the decision with regard to the abovementioned matters, taking into account the opinion of other supervisory authorities notified thereto for taking the joint decision within the specified time period. The Financial and Capital Market Commission shall notify the decision to the European Union parent company registered in the Republic of Latvia and to other supervisory authorities.

(5) If any of the supervisory authorities has referred to the European Banking Authority within the time period specified for taking of the joint decision with a request to provide assistance in taking the joint decision in accordance with Article 19 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (hereinafter – Regulation No 1093/2010), the Financial and Capital Market Commission shall defer taking of its decision and implement measures according to the decision of the European Banking Authority. If the European Banking Authority does not take the decision within one month, the decision shall be taken by the Financial and Capital Market Commission.

(6) If supervisory authorities do not take the joint decision within the time period specified for taking of the joint decision on the necessity to develop an individual recovery plan for institutions and on application of the measures specified in Section 6 of this Law at the level of subsidiaries, the supervisory authorities of subsidiaries are entitled to take a decision within the framework of their supervision, unless the Financial and Capital Market Commission or other involved supervisory authority has referred to the European Banking Authority with a request to provide assistance in accordance with Article 19 of Regulation No 1093/2010. The supervisory authorities which do not have disagreements may take the joint decision on a group recovery plan covering the group companies under their supervision.

(7) For taking of the joint decision within the specified time period, the Financial and Capital Market Commission is entitled to refer to the European Banking Authority with a request to provide assistance in accordance with that specified in Paragraph six of this Section and in accordance with Article 19 of Regulation No 1093/2010 on assessment of the recovery plan and the measures specified in Section 6 of this Law, and also in accordance with Article 31(c) of Regulation No 1093/2010 in order to receive assistance for taking of the joint decision.

[*16 February 2017*]

**Section 9.** (1) The Financial and Capital Market Commission as the supervisory authority of a European Union parent company of another Member State registered in the Republic of Latvia shall participate in taking the joint decision on the assessment of a group recovery plan.

(2) If, within four months from the day when the supervisory authority of a European Union parent company of the Member State has sent a group recovery plan, the joint decision on the review and assessment of the group recovery plan or the decision on any measures to be taken by the European Union parent company of the Member State is not taken, the Financial and Capital Market Commission shall implement measures in conformity with the decision of the supervisory authority of the European Union parent company of the Member State and the joint decision of the European Banking Authority, if any of the involved supervisory authorities has referred to the European Banking Authority with a request to provide assistance in accordance with Article 19 of Regulation No 1093/2010 and the European Banking Authority has taken a decision within one month.

(3) If the joint decision on the necessity to draw up an individual recovery plan for institutions and on the application of the measures specified in Section 6 of this Law at the level of subsidiaries is not taken within the specified time period, the Financial and Capital Market Commission has the right to take an individual decision in respect of subsidiaries registered in the Republic of Latvia. If any of the involved supervisory authorities has referred to the European Banking Authority with a request to provide assistance in accordance with Section 19 of Regulation No 1093/2010 on taking of a decision in respect of subsidiaries registered in the Republic of Latvia and the European Banking Authority has taken such decision within one month from the day when the relevant supervisory authority has asked for assistance, the Financial and Capital Market Commission shall implement measures according to the decision of the European Banking Authority.

(4) For the taking of the joint decision within the specified time period, the Financial and Capital Market Commission is entitled to refer to the European Banking Authority with a request to provide assistance in conformity with that specified in Paragraph two of this Section and in accordance with Article 19 of Regulation No 1093/2010 on assessment of the recovery plan and measures specified in Section 6 of this Law, and also in accordance with Article 31(c) of Regulation No 1093/2010 in order to receive assistance for taking the joint decision.

**Section 10.** The joint decisions referred to in Section 8 and 9 of this Law and the decisions which are taken by supervisory authorities are considered to be binding on resolution authorities in the relevant Member State, and they shall be applied by the involved supervisory authorities in the relevant Member States.

**Chapter III**

**Resolution Plans**

**Section 11.** (1) The Financial and Capital Market Commission, after consulting with the resolution authorities in the territories of those Member States in which any significant branches are located, shall draw up a resolution plan for each institution that is not part of a group subject to consolidated supervision. The resolution plan provides for the resolution actions which the resolution authority may take where the institution meets the conditions for resolution. The Financial and Capital Market Commission shall provide information to the institution on the summary referred to in Paragraph six, Clause 1 of this Section.

(2) The resolution plan shall provide for several scenarios, and also that the event of insolvency may be idiosyncratic or may occur at a time of instability of the entire financial sector. The resolution plan shall be drawn up, without providing for the State aid and emergency liquidity assistance therein.

(3) The institution shall indicate the assets in the resolution plan which are qualified as collateral when applying for the use of central bank facilities of a Member State.

A resolution plan shall be reviewed once a year and updated after any material changes in the legal form or organisational structure of the institution or in its commercial activity or its financial position which could have a material effect on the effectiveness of the plan or otherwise necessitates a revision of the resolution plan.

(41) Upon application of the resolution action or exercise of the rights referred to in Section 53 of this Law, the Financial and Capital Market Commission shall review the resolution plan.

(5) The institution shall immediately inform the Financial and Capital Market Commission of any changes which necessitate a revision or update of the resolution plan.

(6) The resolution plan provides for an option for the application of the resolution tools and resolution powers in relation to the institution. The resolution plan shall include:

1) a summary of the key elements of the plan;

2) a summary of the material changes in the institution which have occurred after the latest resolution information was filed;

3) a demonstration of how critical functions and core business lines could be legally and economically separated, to the extent necessary, from other functions so as to ensure continuity upon insolvency of the institution;

4) an estimation of the time period for executing each material aspect of the plan;

5) a detailed description of the resolvability assessment;

6) a description of any measures to be taken to address or remove impediments which have been detected in the resolvability assessment;

7) a description of the procedures for the determination of the value and marketability of the critical functions, core business lines, assets of the institution;

8) a detailed description of the arrangements for ensuring that the information required from the institutions necessary for the resolution plan is up to date and at the disposal of the resolution authorities;

9) an explanation by the Financial and Capital Market Commission as to how the resolution options could be financed without the provision of the State aid or emergency liquidity assistance;

10) a detailed description of the different resolution strategies that could be applied according to the different possible scenarios and the applicable timescales;

11) a description of critical interdependencies of the institution with other institutions;

12) a description of options for preserving access to payments and infrastructures of clearing services, and also other infrastructures, and an assessment of the portability of client positions;

13) an analysis of the impact of the plan on the employees of the institution, including an assessment of any associated costs, and a description of the procedures provided for consulting the staff during the resolution process;

14) a plan for communicating with the media and the public;

15) the minimum requirements for own funds and eligible liabilities referred to in Sections 60.2 and 61 of this Law and the deadline for the fulfilment of the respective requirements;

16) the time period which has been specified by the Financial and Capital Market Commission for the fulfilment of the requirements laid down in Section 59.1, Paragraphs seven, eight, nine, ten, eleven, twelve, thirteen, or fourteen of this Law;

17) a description of measures for maintaining the continuous functioning of the operational processes of the institution;

18) any opinion expressed by the institution in relation to the resolution plan, if any received.

(61) In specifying the time periods referred to in Paragraph six, Clauses 15 and 16 of this Law, the Financial and Capital Market Commission shall take into account the time period for ensuring the fulfilment of the requirements laid down in Section 101.17 of the Credit Institution Law.

(7) The Financial and Capital Market Commission has the right to request that the institution and the financial company maintain detailed records of financial contracts. The Financial and Capital Market Commission is entitled to specify a time period within which the institution and the financial company shall present the records related to financial contracts. The Financial and Capital Market Commission may specify different time periods for different types of financial contracts.

(71) If application of bail-in tool is intended in the resolution plan of the institution drawn up by the Financial and Capital Market Commission, the institution shall identify those clients – commercial companies of the institution or the financial company which exceed the annual turnover criterion of a small and medium-sized enterprise laid down in Annex I to Regulation No 651/2014.

(8) The Financial and Capital Market Commission shall immediately send a resolution plan to the involved resolution authorities of other Member States.

[*16 February 2017; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 12.** The institution has an obligation, upon request of the Financial and Capital Market Commission, to cooperate during the course of development of a resolution plan and provide all the information necessary for the drawing up of the resolution plan and the implementation thereof.

**Section 13.** (1) The Financial and Capital Market Commission shall, together with the resolution authorities of subsidiaries and after consulting the resolution authorities of significant branches, insofar as it refers to the specific significant branch, draw up a group resolution plan.

(2) The Financial and Capital Market Commission has the right to involve foreign resolution authorities in the drawing up and maintaining of the group resolution plan in the territory of location of which the group has registered its subsidiaries or financial management companies, or significant branches.

(3) The group resolution plan shall lay down resolution measures to be taken in respect of the following:

1) a European Union parent company registered in the Republic of Latvia;

2) subsidiaries that are part of the group and perform commercial activity in a Member State;

3) the companies referred to in Section 2, Paragraph two, Clauses 3 and 4 of this Law;

4) subsidiaries that are part of the group and perform commercial activity outside the Member States.

(4) The group resolution plan shall be drawn up on the basis of the information which is provided in accordance with Section 12 of this Law. The resolution plan for each group shall include resolution entities and resolution groups.

(5) The group resolution plan shall indicate the following:

1) the resolution actions which are intended to be carried out in respect of the resolution entities in accordance with Section 11, Paragraph two of this Law and the assessment of the impact of the resolution action on other group companies, parent company, and subsidiaries referred to in Section 2, Paragraph two, Clauses 2, 3, and 4 of this Law;

2) the resolution actions which are intended to be carried out in respect of resolution entities of each resolution group and the assessment of the impact of the resolution action on other group entities and other resolution groups;

3) the assessment on how the resolution tool could be used in respect of resolution entities that perform commercial activity in the Member States to apply resolution tools in a harmonised manner and implement resolution powers, including measures which would allow a third party to acquire the group as a whole or separate business lines, activities which are carried out by a number of institutions within a group or financial companies, or particular institutions within a group or financial companies, or resolution groups, and also indicate the possible obstacles to harmonised resolution;

4) information on cooperation with the relevant foreign state institutions and impact of resolution in the Member States if companies registered in foreign countries are in the composition of the group;

5) information on the measures that are necessary to facilitate group resolution if conformity has been detected for the conditions for resolution;

6) information on any other measures in relation to the group resolution (on institutions belonging to each resolution group or financial companies);

7) information on the sources of financing of the group resolution actions and cases where an agreement would be required on the financing arrangements and principles for sharing responsibility among providers of financing of the Member States in respect of such financing.

(6) The group resolution plan shall not provide for the State aid and emergency liquidity assistance. The principles for sharing responsibility among providers of financing of the Member States shall be determined on the basis of fair criteria and taking into account the drawn-up financing plan and its impact on the financial stability in all involved Member States.

(7) The assessment of the resolvability of the group is drawn up concurrently with the updated group resolution plan. A detailed description of the resolvability assessment shall be included in the group resolution plan.

(8) The group resolution plan shall not have an incommensurate impact on any Member State.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 14.** (1) A European Union parent company registered in the Republic of Latvia shall provide the information to the Financial and Capital Market Commission which it is entitled to request in accordance with Section 12 of this Law and which concerns the European Union parent company registered in the Republic of Latvia and each of the group companies, including also the companies referred to in Section 2, Paragraph two, Clauses 3 and 4 of this Law.

(2) The Financial and Capital Market Commission shall send the information received which applies to the European Banking Authority in relation to group resolution plans and each relevant subsidiary or significant branch to the European Banking Authority, the resolution authorities of subsidiaries, the resolution authorities of those Member States in which significant branches are located, the supervisory authorities involved in the college of supervisors and resolution authorities of those Member States under the supervision of which the financial companies referred to in Section 2, Paragraph two, Clauses 3 and 4 of this Law are which are performing their commercial activities in the territory of the relevant Member State. The Financial and Capital Market Commission shall not send the information which applies to foreign subsidiaries without a consent of the foreign supervisory authority or resolution authority.

(21) The Financial and Capital Market Commission shall draw up and maintain a group resolution plan while consulting the resolution authorities referred to in Paragraph two of this Section. The Financial and Capital Market Commission has the right to involve foreign resolution authorities in the drawing up and maintaining of the group resolution plan in the territory of location country of which the group has registered its subsidiaries or financial management companies, or significant branches.

(3) The Financial and Capital Market Commission shall review a group resolution plan of a European Union parent company registered in the Republic of Latvia and request to update it annually, and also after any change in the legal form or organisational structure, in the business, or in the financial position of the group including any group company, which could have a material effect on the plan.

(4) The resolution plan of the group headed by a European Union parent company registered in the Republic of Latvia shall be taken by the joint decision of the Financial and Capital Market Commission and the resolution authorities of subsidiaries within four months from the day when the Financial and Capital Market Commission has sent the information referred to in Paragraph two of this Section. If the group consists of more than one resolution group, the planning in respect of the resolution actions referred to in Section 13, Paragraph five, Clause 2 of this Law shall be included in the joint decision.

(5) If the Financial and Capital Market Commission and the involved resolution authorities fail to take the joint decision within the time period specified for the taking of the joint decision, the decision on a group resolution plan shall be taken by the Financial and Capital Market Commission, taking into account the opinion of other supervisory authorities. The Financial and Capital Market Commission shall submit the decision to the European Union parent company registered in the Republic of Latvia.

(6) If any of the involved resolution authorities has referred to the European Banking Authority within the time period specified for the taking of the joint decision with a request to provide assistance in accordance with Article 19 of Regulation No 1093/2010, the Financial and Capital Market Commission shall defer taking of the decision and implement measures according to the decision of the European Banking Authority. If the European Banking Authority does not take the decision within one month, the decision shall be taken by the Financial and Capital Market Commission.

(7) If the joint decision of the involved resolution authorities is not taken within the specified time period, each resolution authority responsible for a subsidiary is entitled to take a decision and to draw up and maintain the resolution plan of the company under its supervision, unless the Financial and Capital Market Commission or other involved supervisory has referred to the European Banking Authority with a request to provide assistance in accordance with Article 19 of Regulation No 1093/2019. The supervisory authorities which do not have disagreements may take the joint decision on a group resolution plan, covering group companies under their supervision.

(8) For the taking of the joint decision within the specified time period, the Financial and Capital Market Commission may refer to the European Banking Authority with a request to provide assistance in conformity with that specified in Paragraph seven of this Section in accordance with Article 19 of Regulation No 1093/2010, unless any of the involved resolution authorities consider that the issue on which agreement is not reached may jeopardise fiscal liability of the Member State of the abovementioned resolution authority, and also in accordance with Article 31(c) of Regulation No 1093/2010 in order to receive assistance in taking of the joint decision.

(9) If the involved resolution authority considers that the issue related to the group resolution plan on which agreement has not been reached may jeopardise the fiscal policy of the Member State of the abovementioned resolution authority, the Financial and Capital Market Commission shall initiate reassessment of the group resolution plan, including assessing the minimum requirements for own funds and eligible liabilities.

(10) The Financial and Capital Market Commission shall send the group resolution plan of the European Union parent company registered in the Republic of Latvia to the involved supervisory authorities.

[*16 February 2017; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 15.** (1) The Financial and Capital Market Commission as the resolution authority of a European Union parent company of another Member State registered in the Republic of Latvia shall participate in taking of the joint decision on a group resolution plan.

(2) If the Financial and Capital Market Commission or resolution authority of another Member State does not take the joint decision within four months, the Financial and Capital Market Commission or another resolution authority that is responsible for a subsidiary and disagrees with the group resolution plan shall take an individual decision itself, determine a resolution entity, and also draw up and maintain the group resolution plan. If the Financial and Capital Market Commission disagrees with the group resolution plan, it shall justify its individual decision providing reasons for its objections to the group resolution plan by taking into account opinions of other resolution authorities and supervisory authorities. The Financial and Capital Market Commission shall inform other members of the resolution college of its decision. The joint decision taken by the resolution authority of a European Union parent company of another Member State and the European Banking Authority on the resolution plan shall be binding upon the Financial and Capital Market Commission if any of the involved supervisory authorities has turned to the European Banking Authority with a request to provide assistance in accordance with Article 19 of Regulation No 1093/2010 and the European Banking Authority has taken the decision within one month.

(3) If the joint decision of the involved resolution authorities has not been taken within the specified time period, the Financial and Capital Market Commission is entitled to take an individual decision in respect to the subsidiaries registered in the Republic of Latvia, and also to draw up and maintain the resolution plans of the institutions registered in the Republic of Latvia. The Financial and Capital Market Commission shall explain the justification for the objections against the proposed group resolution plan in the abovementioned decision and shall take into account the opinions of other supervisory authorities and resolution authorities.

(4) If, within the time period specified for taking the joint decision, any of the involved resolution institutions has referred to the European Banking Authority with a request to provide assistance in accordance with Article 19 of Regulation No 1093/2010 and the European Banking Authority has taken a decision within one month of the day when the relevant resolution authority has referred to assistance, the Financial and Capital Market Commission shall implement measures according to the decision of the European Banking Authority, except for the case when any of the involved resolution authorities detects that the issue to be examined which has been transferred to the European Banking Authority may jeopardise the stability of the financial sector of the relevant Member State.

(5) In order to take the joint decision within the specified time period, the Financial and Capital Market Commission is entitled to refer to the European Banking Authority with a request to provide assistance in conformity with that specified in Paragraph two of this Section and in accordance with Article 19 of Regulation No 1093/2010 on the assessment of recovery plans, except for the case when any of the involved resolution authorities considers that the issue on which agreement is not reached may jeopardise fiscal liability of the Member State of the abovementioned resolution authority, and also in accordance with Article 31(c) of Regulation No 1093/2010 in order to receive assistance in taking of the joint decision.

(6) If the joint decision has been taken on a group resolution plan and the Financial and Capital Market Commission considers that the issue related to the group resolution plan on which agreement has not been reached may jeopardise the fiscal policy of the Republic of Latvia, the Financial and Capital Market Commission shall request the resolution authority of a European Union parent company of other Member State to initiate reassessment of the group resolution plan, including assessing the minimum requirement for own funds and eligible liabilities.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 16.**. The joint decision referred to in Sections 14 and 15 of this Law and the decisions which are taken by resolution authorities in the absence of the joint decision shall be regarded to be final and they shall be applied by the involved resolution authorities in the relevant Member States.

**Chapter IV**

**Resolvability Assessment of the Institution**

[*16 February 2017*]

**Section 17.** (1) After consulting with the resolution authorities in the territories of those Member States in which significant branches are located, the Financial and Capital Market Commission shall assess the extent to which an institution which is not part of a group is resolvable without providing the State aid or Latvijas Banka support.

(2) The institution shall be deemed to be resolvable if, upon applying the winding up or different resolution tools and powers, it would avoid any significant adverse effect on the financial system of the Republic of Latvia or other Member States to the maximum extent possible, and also broader financial instability or systemic crisis, and the objective of ensuring the continuity of critical functions carried out by the institution would be achieved. The Financial and Capital Market Commission shall notify the European Banking Authority in a timely manner whenever an institution is deemed not to be resolvable.

(21) The Financial and Capital Market Commission shall issue regulatory provisions laying down requirements for the resolvability assessment of the institution.

(3) [16 February 2017]

(4) The resolvability assessment shall be made in accordance with this Section by the resolution authority concurrently with the drawing up and updating of the resolution plan.

[*16 February 2017; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” and amendment regarding the replacement of the words “regulatory provisions” with the word “provisions” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 18.** (1) The Financial and Capital Market Commission shall, together with the resolution authorities of subsidiaries and supervisory authorities of subsidiaries, and also the resolution authorities in the territories of those Member States in which significant branches are located, assess the extent to which a group of a European Union parent company registered in the Republic of Latvia is resolvable without providing the State aid or Latvijas Banka support.

(2) A group shall be deemed to be resolvable if, upon applying the winding up or different resolution tools and powers in relation to the group resolution entities, it would avoid, to the maximum extent possible, any significant adverse effect on the financial systems of those Member States in which group entities or branches are located, or on the financial systems of other Member States, and also broader financial instability or systemic crisis, and the objective of ensuring the continuity of critical functions performed by the group companies would be achieved. If the Financial and Capital Market Commission considers that the group is not resolvable, it shall inform the European Banking Authority in a timely manner.

(3) The group resolvability assessment shall be examined by the resolution colleges.

(4) The Financial and Capital Market Commission shall issue regulatory provisions laying down requirements for the group resolvability assessment.

(5) The resolvability assessment shall be made in accordance with this Section concurrently with the group resolution plan.

(6) If the group consists of more than one resolution group, the Financial and Capital Market Commission shall assess resolvability of each resolution group individually. Such assessment shall be made in addition to the joint decision on a resolution plan of the group as a whole in accordance with the procedures laid down in Section 15 of this Law.

[*16 February 2017; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka”, amendment regarding the replacement of the words “regulatory provisions” with the word “provisions” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 18.1** (1) If an institution or a financial company conforms to the combined capital buffer requirement laid down in accordance with Sections 35.22, 35.23, 35.24, and 35.25 of the Credit Institution Law but does not conform to the combined capital buffer requirement within the scope of the minimum requirement for own funds and eligible liabilities laid down in accordance with Sections 60 and 60.1 of this Law, the Financial and Capital Market Commission has the right to, in accordance with Paragraphs two and three of this Section, prohibit the institution or financial company from distributing an amount which exceeds the maximum distributable amount related to the minimum requirement for own funds and eligible liabilities and which is calculated in accordance with Paragraph six of this Section by taking any of the following actions:

1) distribution of the items of Common Equity Tier 1 which includes the following within the meaning of this Law:

a) disbursement of dividends;

b) distribution of partly or wholly paid-up preferred shares or other capital instruments indicated in Article 26(1)(a) of Regulation No 575/2013;

c) redemption or acquisition of own shares or other capital instruments indicated in Article 26(1)(a) of Regulation No 575/2013;

d) repayment of the amounts paid in relation to the capital instruments indicated in Article 26(1)(a) of EU Regulation No 575/2013;

e) distribution of the items indicated in Article 26(1)(b), (c), (d), and (e) of Regulation No 575/2013;

2) commitment of payment obligations of variable component of remuneration or discretionary pension benefits‧(within the meaning of Regulation No 575/2013) or disbursement of variable component of remuneration if a credit institution has assumed payment obligations at the time when it did not conform to the minimum requirement for own funds and eligible liabilities;

3) disbursement of interest or dividends on Additional Tier 1 instruments.

(2) If an institution or financial company is in the situation referred to in Paragraph one of this Section, it shall immediately notify the Financial and Capital Market Commission thereof.

(3) In the situation referred to in Paragraph one of this Section, the Financial and Capital Market Commission shall immediately assess the following:

1) the reason for non-conformity and also its duration, extent, and impact on resolvability;

2) the evolution of the financial situation of the institution or financial company and the probability that the financial institution could meet the condition laid down in Section 39, Paragraph one, Clause 1 of this Law in the near future;

3) the prospect that the institution or financial company will be able to ensure conformity to the minimum requirement for own funds and eligible liabilities within a reasonable time period;

4) the inability of the institution or financial company to replace liabilities that no longer conform to the eligibility or time criteria laid down in Articles 72(b) and 72(c) of Regulation No 575/2013 or Section 59.1 or Section 61, Paragraph six of this Law, and the fact whether this inability is specific or related to market-wide disturbance;

5) the fact whether the exercise of the rights referred to in Paragraph one of this Section is the most appropriate and proportionate way to address the situation of the institution or financial company by taking into account its potential impact on the financing conditions and resolvability of the relevant institution.

(4) If the Financial and Capital Market Commission establishes that the institution or financial company is still in the situation referred to in Paragraph one of this Section nine months after the respective institution or financial company has notified such situation, the Financial and Capital Market Commission shall exercise the rights referred to in Paragraph one of this Section, except where the Financial and Capital Market Commission establishes upon assessment that at least two of the following conditions are met:

1) the non-conformity is related to disruptions on the financial market in a number of segments of the financial market;

2) the disruptions referred to in Clause 1 of this Paragraph not only cause an increase in fluctuations in the prices of own funds instruments and eligible liabilities instruments of the institution or financial company or an increase of costs of the institution or financial company but also lead to full or partial closure of the financial market which prevents the institution or financial company from issuing own capital instruments and eligible liabilities instruments on the respective markets;

3) the closure of the financial market referred to in Clause 2 of this Paragraph is observed not only in respect of the relevant institution or financial company but also in respect of other institutions or financial companies;

4) the disruptions referred to in Clause 1 of this Paragraph prevent the institution or financial company from issuing own funds instruments and eligible liabilities instruments in a sufficient amount to eliminate non-conformity;

5) the exercise of the rights referred to in Paragraph one of this Section results in negative impact on part of the sector of credit institutions which may potentially pose a threat to financial stability.

(5) The Financial and Capital Market Commission shall re-assess every month whether the prohibitions referred to in Paragraph one of this Section are applicable.

(6) The maximum distributable amount which is related to the combined capital buffer requirement within the scope of the minimum requirement for own funds and eligible liabilities shall be calculated in accordance with Article 10a(4) of Regulation No 806/2014.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 19.** The Financial and Capital Market Commission shall, as the resolution authority of a subsidiary of a European Union parent company of another Member State, participate in the group resolution assessment of a European Union parent company of another Member State in accordance with Sections 15, 16, and 20 of this Law.

**Section 20.** (1) If the Financial and Capital Market Commission establishes, by taking into account the resolvability assessment of an institution or financial company, that there are substantive impediments to resolvability of the respective institution or financial company, the Financial and Capital Market Commission shall notify the relevant institution or financial company and the resolution authorities in the jurisdictions where significant branches are located thereof in writing.

(2) Drawing up of the resolution plan shall be suspended until the moment when the Financial and Capital Market Commission has approved the measures to remove the substantive impediments to resolvability or has taken a the decision to implement one or several of the measures referred to in Paragraph eight of this Section.

(3) Within four months from the day when the institution or financial company has received a notification of the Financial and Capital Market Commission on the established impediments, it shall inform the Financial and Capital Market Commission of the measures to be taken to remove the substantive impediments referred to in the notification.

(4) Within two weeks from the day when the institution or financial company has received a notification of the Financial and Capital Market Commission on the established impediments, it shall notify the Financial and Capital Market Commission of the possible measures (indicating the time limits for their implementation) which will ensure that the institution or financial company conforms to Section 60.2 or 61 of this Law and the combined capital buffer requirement if the reason for the substantive impediment is one of the following conditions:

1) the institution or financial company meets the combined capital buffer requirement if it is assessed in addition to the requirements referred to in Section 101.16 of the Credit Institution Law but does not meet the combined capital buffer requirement if it is assessed in addition to the requirements referred to in Sections 60 and 60.1 of this Law when they are calculated in accordance with Section 59, Paragraph two, Clause 1 of this Law;

2) the institution or financial company does not conform to the requirements referred to in Articles 92a and 494 of Regulation No 575/2013 or the requirements referred to in Sections 60 and 60.1 of this Law.

(5) In setting the time limits for the implementation of the possible measures referred to in Paragraph four of this Section, reasons for the substantive impediment shall be taken into account.

(6) The Financial and Capital Market Commission shall assess whether it is possible to address or effectively remove the established substantive impediment by taking the possible measures referred to in Paragraph four of this Section.

(7) If the Financial and Capital Market Commission establishes that the impediments to resolvability cannot be removed by taking the measures specified by the institution or financial company, it shall determine alternative measures and request the institution or financial company to include them in the resolution plan within a month. In determining alternative measures, the Financial and Capital Market Commission shall indicate why the impediments to resolvability cannot be removed by taking the measures specified by the institution or financial company and why alternative measures need to be determined. The Financial and Capital Market Commission shall also take into account the possible threats which the respective impediments to resolvability pose to financial stability and the impact of the measures on the operation and stability of the institution or financial company.

(8) Upon acting in accordance with Paragraph seven of this Section, the Financial and Capital Market Commission is entitled to:

1) request the institution or financial company to review any intra-group financing arrangements or consider the absence thereof, or draw up service contracts to ensure that critical functions are performed;

2) request the institution and financial company to limit their maximum exposures;

3) request specific or regular additional information for resolution purposes;

4) request the institution or financial company to dispose of certain assets;

5) request the institution or financial company to limit or cease specific existing and proposed activities;

6) request the institution or financial company to restrict or prevent the development of new or existing business lines or sale of new or existing products;

7) request changes in the legal form or organisational structure of the institution or financial company, or a group company in which the institution or financial company, or group company has a holding, thus ensuring that critical functions may be legally and organisationally separated from other functions through the application of resolution tools;

8) request the institution or financial company, or parent company to set up a parent financial holding company in a Member State or a European Union parent financial holding company;

9) request the institution or financial company to submit a plan the purpose of which is to restore conformity to the requirements referred to in Section 60.2 or 61 of this Law that are expressed as a percentage of the total exposure value which has been calculated in accordance with Article 92(3) of Regulation No 575/2013 and, where applicable, the combined capital buffer requirement, and the requirements referred to in Section 60.2 or 61 of this Law that are expressed as a percentage of the total exposure amount as laid down in Articles 429 and 429a of Regulation No 575/2013;

91) request the institution – investment firm – referred to in Section 2, Paragraph two, Clause 1 of this Law and the investment firm referred to in Section 2, Paragraph two, Clause 2 of this Law other than the investment firm specified in Article 1(2) or (5) of Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements of investment firms and amending Regulations (EU) No 1093/2010, (EU) No 575/2013, (EU) No 600/2014 and (EU) No 806/2014 (hereinafter – Regulation No 2019/2033) to submit a plan the objective of which is to renew conformity with the requirements of Section 60.2 or 61 of this Law which are expressed as the total risk exposure value measurement calculated in accordance with the requirements of Article 11(1) of Regulation No 2019/2033, multiplying this measurement by 12.5;

10) request the institution or financial company to issue eligible liabilities in order to ensure fulfilment of the requirements laid down in Section 60.2 or 61 of this Law;

11) request the institution or financial company to take any other measures in order to meet the minimum requirement for own funds and eligible liabilities in accordance with Section 60.2 or 61 of this Law, including in particular to seek renegotiations on any eligible liabilities, Additional Tier 1 instruments or Tier 2 instruments which it has issued in order to ensure that each decision of the resolution authority on write-down or conversion of the respective liabilities or instruments is implemented in accordance with the laws and regulations of such jurisdiction that refers to the respective liabilities or instruments;

12) for the purpose of ensuring continuous conformity to Section 60.2 or 61 of this Law, request the respective institution or financial company to change the maturity profile for own funds instruments after obtaining consent of the supervisory authority and for the eligible liabilities referred to in Section 59.1 and Section 61, Paragraph six, Clause 1 of this Law;

13) where the institution or financial company is the subsidiary of a mixed-activity holding company, request the relevant mixed-activity holding company to establish a separate financial holding company which would control the institution, and also, where necessary, facilitate resolution of the institution or financial company and avoid the situation where application of the resolution tools and powers would have an adverse effect on such part of the group which is not directly related to the provision of financial services.

(9) Prior to implementing the possible measures referred to in Paragraph four of this Section, the Financial and Capital Market Commission shall, where necessary, together with Latvijas Banka, duly consider the potential impact of those measures on the particular institution or financial company, on the internal market of financial services, and on the financial stability in other Member States (in each separately and in all as a whole).

(10) The institution or financial company shall be obliged to submit a plan for the fulfilment of the relevant measure to the Financial and Capital Market Commission within one month after implementation of the possible measures referred to in Paragraph four of this Section.

[*30 September 2021; 28 April 2022* / *Amendment regarding the deletion of the words “where necessary, together with Latvijas Banka” and amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraphs 4 and 13 of Transitional Provisions*]

**Section 21.** (1) The Financial and Capital Market Commission shall, together with resolution authorities of subsidiaries, after consulting the college of supervisors and resolution authorities in the territories of those Member States in which significant branches are located, carry out the group resolution assessment of a European Union parent company registered in the Republic of Latvia in the resolution college in order to take the joint decision on application of the measures specified in Section 20, Paragraph eight of this Law to all institutions and financial companies that are part of the group, and their subsidiaries.

(2) The Financial and Capital Market Commission shall, in cooperation with the European Banking Authority, draw up and submit a report to the European Union parent company registered in the Republic of Latvia, the resolution authorities of subsidiaries which will hand it over to the subsidiaries under their control, and to the resolution authorities in the territories of such Member States in which significant branches are located. The report shall include information on the substantive impediments to efficient application of the resolution tools and use of the resolution powers in relation to the group and in relation to the resolution groups if a group consists of more than one resolution groups, and also the information on the impact on the business model of the group and shall recommend proportionate and targeted measures that are considered by the Financial and Capital Market Commission to be necessary or appropriate to remove the abovementioned impediments.

(3) If the impediment to resolvability of a group is related to the institution or financial company referred to in Section 20, Paragraphs three and four of this Law, the Financial and Capital Market Commission shall notify a European Union parent company of its assessment in respect of the specific impediment.

(4) Within four months from the day of receipt of the report, the European Union parent company registered in the Republic of Latvia may submit its observations to the Financial and Capital Market Commission and inform it of possible measures to remove the impediments indicated in the report.

(5) If the impediments indicated in the report are related to the institution or financial company referred to in Section 20, Paragraphs three and four of this Law, a European Union parent company shall, within two weeks from the day of receipt of the report that is provided in accordance with Paragraph four of this Section, propose possible measures to the group-level resolution authority (indicating the time periods for the implementation thereof) by which it is ensured that the group institution or financial company conforms to the requirements referred to in Section 60.2 or 61 of this Law that are expressed as a percentage of the total exposure value which has been calculated in accordance with Article 92(3) of Regulation No 575/2013 and, where applicable, the combined capital buffer requirement, and the requirements referred to in Section 60.2 or 61 of this Law that are expressed as a percentage of the total exposure amount as laid down in Articles 429 and 429a of Regulation No 575/2013.

(51) If the obstacles indicated in the report are related to the institution – investment firm – referred to in Section 2, Paragraph two, Clause 1 and the investment firm referred to in Clause 2 of this Law other than the investment firm specified in Article 1(2) or (5) of Regulation No 2019/2033, a European Union parent company shall, within two weeks from the day of receiving a report provided in accordance with Paragraph four of this Section, propose possible measures to the group-level resolution authority (indicating the time periods for the implementation thereof) by which it is ensured that the group institution or financial company conforms to the requirements of Section 60.2 or 61 of this Law that are expressed as a percentage of the total exposure value which has been calculated in accordance with Article 11(1) of Regulation No 2019/2033, multiplying this measurement by 12.5.

(6) In setting the time limits for the implementation of the possible measures referred to in Paragraph five of this Section, reasons for the substantive impediment shall be taken into account. The Financial and Capital Market Commission shall assess whether the substantive impediment can be effectively addressed or removed by taking the respective measures.

(7) The Financial and Capital Market Commission shall notify the European Banking Authority, the resolution authorities of the subsidiaries, and the resolution authorities in the territories of those Member States in which significant branches are located of all possible measures of a parent company of a Member State registered in the Republic of Latvia. The Financial and Capital Market Commission and the resolution authorities of the subsidiaries shall, after consulting the supervisory authorities and resolution authorities in the territories of such Member States in which significant branches are located, take the joint decision in the resolution college on the establishment of substantive impediments and the assessment of the possible measures of the European Union parent company registered in the Republic of Latvia and the measures requested by the resolution authorities to reduce or remove the impediments by taking into account the impact of such measures in all the Member States where the group operates.

(8) The joint decision shall be taken within four months from the day the notification referred to in Paragraph seven of this Section has been submitted. If the European Union parent company has not submitted any observations, the joint decision shall be taken within one month after the four-month time period referred to in Paragraph one of this Section has expired. The Financial and Capital Market Commission shall notify the European Union parent company registered in the Republic of Latvia of the decision taken.

(9) The joint decision on the impediments to resolvability in relation to the possible measures referred to in Section 20, Paragraph four of this Law shall be taken within two weeks after the European Union parent company has submitted its observations on the possible measures in accordance with Paragraph five of this Section. The joint decision shall also indicate its justification. The respective justification shall be provided in a document which is notified by the Financial and Capital Market Commission to the European Union parent company.

(10) The Financial and Capital Market Commission is entitled to submit to the European Banking Authority a request to help the European Union resolution authorities to take the joint decision in accordance with Article 31(2)(c) of Regulation No 1093/2010.

(11) If the involved resolution authorities have not taken the joint decision within the time period specified in Paragraphs eight and nine of this Section, the Financial and Capital Market Commission shall, taking into account opinions of other resolution authorities, take its own decision to implement the measures specified in Section 20, Paragraph eight of this Law at the group level. The Financial and Capital Market Commission shall notify the European Union parent company registered in the Republic of Latvia of the decision taken.

(12) If at the end of the time period referred to in Paragraph eight or nine of this Section the Financial and Capital Market Commission has referred to the European Banking Authority in accordance with Article 19 of Regulation No 1093/2010 in respect of the decision referred to in Paragraph nine of this Section, the group-level resolution authority shall postpone taking of the decision, wait for the decision of the European Banking Authority, and take its own decision in accordance with the decision of the European Banking Authority. The time period referred to in Paragraphs eight and nine of this Section shall be considered the conciliation period within the meaning of Regulation No 1093/2010. The European Banking Authority shall take the decision within one month. After expiry of the time period referred to in Paragraphs eight and nine of this Section or after taking of the joint decision, the European Banking Authority shall no longer examine the issue. If the European Banking Authority does not take the decision, it shall be taken by the group-level resolution authority.

(13) If the joint decision has not been taken within the time period specified in Paragraph eight or nine of this Section, the Financial and Capital Market Commission shall take its own decision on appropriate measures to be taken at the resolution group level in accordance with Section 20, Paragraph eight of this Law.

(14) The decision referred to in Paragraph thirteen of this Section shall be fully justified and it shall take into account opinions and objections of other resolution authorities of the same resolution group entity and the group-level resolution authority. The Financial and Capital Market Commission shall send the decision to the resolution entity.

(15) If at the end of the time period referred to in Paragraphs eight and nine of this Section the Financial and Capital Market Commission has referred to the European Banking Authority in accordance with Article 19 of Regulation No 1093/2010 with the request referred to in Paragraph eighteen of this Section, the Financial and Capital Market Commission shall postpone taking of the decision, wait for the decision of the European Banking Authority, and take its own decision in accordance with the decision of the European Banking Authority. The time period referred to in Paragraphs eight and nine of this Section shall be considered the conciliation period within the meaning of Regulation No 1093/2010. The European Banking Authority shall take the decision within one month. After expiry of the time period referred to in Paragraphs eight and nine of this Section or after taking of the joint decision, the European Banking Authority shall no longer examine the issue. If the European Banking Authority does not take the decision, it shall be taken by the Financial and Capital Market Commission.

(16) If any of the involved resolution authorities has referred to the European Banking Authority within the time period for the taking of the joint decision with a request to provide assistance in taking of the joint decision in accordance with Article 19 of Regulation No 1093/2010, the Financial and Capital Market Commission shall defer taking of the decision and implement measures in accordance with the decision of the European Banking Authority. If the European Banking Authority does not take the decision within one month, the decision shall be taken by the Financial and Capital Market Commission.

(17) If the joint decision has not been taken, resolution authorities of subsidiaries may specify appropriate measures to remove resolution impediments in respect of the subsidiaries of their jurisdiction, unless the Financial and Capital Market Commission or another involved resolution authority has referred to the European Banking Authority with a request to provide assistance in accordance with Article 19 of Regulation No 1093/2010.

(18) The Financial and Capital Market Commission, within the time period for taking of the joint decision, is entitled to refer to the European Banking Authority with a request to provide assistance in taking of the joint decision in accordance with Paragraph eight of this Section on the measures referred to in Section 20, Paragraph eight of this Law in accordance with Article 19 and Article 31(c) of Regulation No 1093/2010.

[*30 September 2021; 28 April 2022* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraphs 4 and 13 of Transitional Provisions*]

**Section 22.** (1) The Financial and Capital Market Commission as the resolution authority of the subsidiary of a European Union parent company of another Member State which is registered in the Republic of Latvia shall participate in taking of the joint decision on the application of measures specified in Section 20, Paragraph eight of this Law in respect of all institutions that are part of the group.

(2) If, within four months from the day when the resolution authority of a parent company of a Member State has sent a report to the Financial and Capital Market Commission on the substantive impediments to efficient application of the resolution tools and use of the resolution powers in relation to the group, the joint decision has not been taken in accordance with Paragraph one of this Section, the Financial and Capital Market Commission shall take into account the joint decision of the resolution authority of the European Union parent company of another Member State and the joint decision of the European Banking Authority in respect of the group if any of the involved supervisory authorities has referred to the European Banking Authority with a request to provide assistance in accordance with Article 19 of Regulation No 1093/2010 and the European Banking Authority has taken a decision within one month.

(3) If the joint decision has not been taken, the Financial and Capital Market Commission shall take its own decision on the measures to be taken by subsidiaries individually in accordance with Section 20, Paragraph eight of this Law. The Financial and Capital Market Commission shall take into account opinions and objections of other resolution authorities in the abovementioned decision. The Financial and Capital Market Commission shall notify a subsidiary registered in the Republic of Latvia and a resolution entity of the same resolution group, the resolution authority of the respective resolution entity, and, if it is another institution, the group-level resolution authority of its decision.

(4) If at the end of the time period referred to in Section 21, Paragraphs eight and nine of this Law any of the involved resolution authorities has referred to the European Banking Authority in accordance with Article 19 of Regulation No 1093/2010 with a request to provide assistance, the Financial and Capital Market Commission shall postpone taking of the decision, wait for any decision of the European Banking Authority that it may take in accordance with Article 19(3) of the respective Regulation, and take its own decision in accordance with the decision of the European Banking Authority. The time period referred to in Section 21, Paragraphs eight and nine of this Law shall be considered the conciliation period within the meaning of Regulation No 1093/2010. If the European Banking Authority does not take the decision within one month, the decision shall be taken by the Financial and Capital Market Commission.

(5) For the purpose of taking the joint decision within the specified time period, the Financial and Capital Market Commission is entitled to refer to the European Banking Authority with a request to provide assistance in accordance with Paragraph two of this Section in taking of the joint decision on the measures referred to in Section 20, Paragraph eight, Clauses 7, 8, and 11 of this Law in accordance with Article 19 of Regulation No 1093/2010 and Article 31(c) of Regulation No 1093/2010.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 23.** (1) The joint decisions referred to in this Chapter are recognised as conclusive and are binding on the Financial and Capital Market Commission.

(2) The drawing up of the group resolution plan for a European Union parent company is suspended until the time when the involved resolution authorities have approved the measures proposed by the European Union parent company or have determined measures themselves for the removal of material resolution impediments.

**Chapter IV.1**

**Cooperation with the Single Resolution Board**

[*16 February 2017* / *See Paragraph 2 of Transitional Provisions*]

**Section 23.1** The Single Resolution Board shall draw up a resolution plan and take a decision to apply resolution actions under single resolution in respect to the subjects referred to in Article 7(2) and (5) of Regulation No 806/2014 if the Cabinet has transferred the drawing up of a resolution plan and taking the decision to apply resolution actions to the Single Resolution Board.

[*16 February 2017*]

**Section 23.2** The Financial and Capital Market Commission shall provide the information to the Single Resolution Board requested by it for the drawing up of resolution plans in respect of the subjects referred to in Article 7(2) and (5) of Regulation No 806/2014 and other information referred to in Article 28 of Regulation No 806/2014. The Financial and Capital Market Commission shall obtain and assess the information provided to the Single Resolution Board in accordance with the procedures laid down in Chapters III, IV, and V of this Law and in the regulatory provisions issued by the Financial and Capital Market Commission which provide for the requirements for the provision of information for the drawing up of a resolution plan.

[*16 February 2017*]

**Section 23.3** The Financial and Capital Market Commission shall, in accordance with Article 11(2) of Regulation No 806/2014, upon suggesting to the Single Resolution Board to determine preferential requirements in respect of the subjects referred to in Article 7(2) and (5) of Regulation No 806/2014 within the scope of a resolution plan or to take the decision not to develop a resolution plan, justify it with information accordingly which has been acquired and assessed in accordance with the procedures laid down in Chapters III, IV, and V of this Law and in the regulatory provisions issued by the Financial and Capital Market Commission which provide for the requirements for the provision of information for the drawing up of a resolution plan.

[*16 February 2017*]

**Section 23.4** The Financial and Capital Market Commission shall immediately inform the Single Resolution Board in accordance with the procedures laid down in Article 13(1) and (4) of Regulation No 806/2014 on each decision taken by the Financial and Capital Market Commission in respect of implementation of early intervention measures, and also on the situation when financial difficulties are detected for the institution or it is foreseen that they would set in.

[*16 February 2017*]

**Section 23.5** The Financial and Capital Market Commission shall comply with the decision taken by the Single Resolution Board within the scope of the single resolution in respect of the minimum requirement for own funds and eligible liabilities or resolution action. In complying with the respective decision, the Financial and Capital Market Commission shall apply the requirements laid down in this Law for the implementation of the minimum requirement for own funds and eligible liabilities or relevant resolution action in accordance with Article 29 of Regulation No 806/2014 in respect of the subjects referred to in Article 7(2) and (5) of Regulation No 806/2014.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 23.6** The Financial and Capital Market Commission shall, by means of the powers referred to in Section 60, Paragraph sixteen of this Law in respect of the resolution entities, send to the Single Resolution Board a request which has been assessed in compliance with the requirements laid down in this Law.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Chapter V**

**Intra-Group Financial Support**

**Section 24.** (1) A parent company of a Member State or a European Union parent company, or the financial company referred to in Section 2, Paragraph two, Clauses 3 and 4 of this Law and its subsidiaries in other Member States or foreign countries which are institutions or financial institutions and to which the consolidated supervision of the parent company applies may enter into an agreement for the provision of financial support to any other party to the agreement which meets the conditions for early intervention, provided that the conditions laid down in this Chapter are met.

(2) An intra-group financial support agreement shall not affect intra-group financial arrangements, including funding arrangements and the operation of centralised funding arrangements provided that none of activities of the parties to such arrangements meets the conditions for early intervention.

(3) Absence of an agreement shall not affect:

1) the provision of group financial support to any group company that experiences financial difficulties if the institution decides to provide it, assessing on a case-by-case basis according to the group policy, and if it does not cause a risk for the whole group;

2) the operation of the group in a Member State.

(4) Regardless of the intra-group financial agreement the Financial and Capital Market Commission is entitled to impose limitations on intra-group transactions in accordance with the Credit Institution Law due to financial stability considerations or impose an obligation to separate parts of a group or activities performed within a group.

(5) The intra-group financial support agreement may:

1) cover one or more subsidiaries of the group and may provide for financial support from the parent company to subsidiaries, financial support from subsidiaries to the parent company, financial support between subsidiaries of the group which are party to the agreement;

2) provide for financial support when providing a loan, guarantees, assets for their use as collateral, or any combination of the abovementioned forms of financial support in one or more transactions, including between the beneficiary and a third party.

(6) If a group company agrees to provide financial support to another group company in accordance with the provisions of the intra-group financial support agreement, the agreement may provide for a reciprocal agreement by the group company receiving the support to provide financial support to the group company providing the support.

(7) The intra-group financial support agreement shall specify the principles for the calculation of the consideration for any transaction made according to such agreement. The abovementioned principles shall include a requirement to specify the consideration during the provision of financial support. The agreement, the principles for the calculation of the consideration in relation to the provision of financial support, and other conditions of the agreement shall conform to the following principles:

1) each party must be entering into the agreement voluntarily;

2) upon entering into the agreement and when determining the consideration for the provision of financial support, each party must be acting in its own best interests, taking into account any direct or indirect benefit that may accrue to a party as a result of provision of the financial support;

3) each party providing financial support must have full disclosure of relevant information from any party receiving financial support prior to determination of the consideration for the provision of financial support and prior to taking any decision to provide financial support;

4) upon determining the consideration for the provision of financial support, information in the possession of the party providing financial support based on it being in the same group as the party receiving financial support and which is not available to the market may be taken into account;

5) upon determining the principles for the calculation of the consideration for the provision of financial support, any anticipated temporary impact on market prices arising from events external to the group may be taken into account.

(8) The intra-group financial support agreement may only be concluded if, at the time the proposed agreement is made, in the opinion of their respective supervisory authorities, none of the parties meets the conditions for early intervention.

(9) Any right, including right to claim, or action arising from the intra-group financial support agreement may be implemented only by the parties to the agreement.

[*16 February 2017; 28 February 2019*]

**Section 25.** (1) The European Union parent company registered in the Republic of Latvia shall submit to the Financial and Capital Market Commission an application for the receipt of an authorisation for the intra-group financial support agreement. The application shall contain the text of the proposed agreement and indicate the group companies that propose to be parties to the agreement.

(2) The Financial and Capital Market Commission shall immediately forward the application to the supervisory authority of each subsidiary that proposes to be a party to the agreement, in order to reach the joint decision.

(3) The Financial and Capital Market Commission shall take the decision to grant an authorisation if the terms of the proposed agreement meet the conditions for intra-group financial support.

(31) The Financial and Capital Market Commission is entitled to take the decision to prohibit entry into an agreement on provision of intra financial support if it does not meet the conditions of Section 28 of this Law.

(4) The Financial and Capital Market Commission and the involved supervisory authorities of subsidiaries shall, within four months of the date of receipt of the application by the Financial and Capital Market Commission, take the joint decision, taking into account the potential impact, and also any fiscal consequences of the fulfilment of the agreement in all the Member States where the group operates, on whether the conditions of the proposed agreement meets the conditions for intra-group financial support. The Financial and Capital Market Commission shall send the decision taken to the applicant.

(5) If the joint decision is not taken within the time limit stipulated by the supervisory authority, the Financial and Capital Market Commission shall take the decision to authorise the proposed intra-group financial support agreement, taking into account the opinions of other supervisory authorities expressed within the time limit specified for taking of the joint decision. The Financial and Capital Market Commission shall notify the decision to the applicant and other involved supervisory authorities.

(6) If any of the involved supervisory authorities has referred to the European Banking Authority within the time limit specified for taking the joint decision with a request to provide assistance in taking the joint decision in accordance with Article 19 of Regulation No 1093/2010, the Financial and Capital Market Commission shall defer taking the decision and implement measures according to the decision of the European Banking Authority. If the European Banking Authority does not take the decision within one month, the decision shall be taken by the Financial and Capital Market Commission.

(7) For the taking of the joint decision within the specified time period, the Financial and Capital Market Commission may refer to the European Banking Authority with a request to provide assistance in accordance with Article 31(c) of Regulation No 1093/2010 in order to receive assistance in taking the joint decision.

[*16 February 2017*]

**Section 26.** (1) The Financial and Capital Market Commission shall, as the supervisory authority of the subsidiary of a European Union parent company of another Member State, participate in taking the joint decision to authorise the intra-group financial support agreement proposed by a parent company of the Member State.

(2) If, within four months from the day when the supervisory authority of the subsidiary of a European Union parent company of another Member State has received an application for the receipt of an authorisation for the intra-group financial support agreement, the joint decision has not been taken, the decision of the supervisory authority of the parent company of the Member State and the European Banking Authority shall be binding on the Financial and Capital Market Commission, if any of the involved supervisory authorities has referred to the European Banking Authority with a request to provide assistance in accordance with Article 19 of Regulation No 1093/2010 and the European Banking Authority has taken a decision within one month.

(3) For taking the joint decision within the specified time limit, the Financial and Capital Market Commission may refer to the European Banking Authority with a request to provide assistance in accordance with Article 19 or Article 31(c) of Regulation No 1093/2010 in order to receive assistance in taking the joint decision to provide authorisation for the intra-group financial support agreement.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 27.** (1) An intra-group financial support agreement the conclusion of which has been authorised by the supervisory authorities shall be submitted for approval to the meeting of shareholders of every group company that proposes to enter into the agreement. In such case the agreement shall be valid only in respect of those parties whose meeting of shareholders has approved the agreement.

(2) Shareholders of a group company are entitled to authorise the supervisory board or executive board of the group company to decide on the fact that the group company will provide or receive financial support in accordance with the conditions of the agreement and of this Law.

(3) The supervisory board of each company that is party to the agreement shall report each year to the shareholders on the fulfilment of the agreement and on the implementation of any decisions taken according to the agreement.

[*16 February 2017*]

**Section 28.** A group company is entitled to provide financial support according to the intra-group financial support agreement only if all of the following conditions are met:

1) the provided support will significantly redress the financial difficulties of the group company receiving the support;

2) the provision of financial support has the objective of preserving or restoring the financial stability of the group as a whole or any of the companies of the group and is in the interests of the group company providing the support;

3) the financial support has been granted according to the agreement in which the principles for the calculation of the consideration specified in Section 24, Paragraph seven of this Law are taken into account;

4) on the basis of the information available to the executive board or supervisory board of the group company providing financial support at the time when the decision to grant financial support is taken, the group company receiving the support will pay consideration for the support and, if the support is given in the form of a loan, will repay the loan. If the support is given in the form of a guarantee or any form of security, the same condition shall apply to the liabilities arising for the recipient if the guarantee or the security is enforced;

5) the provision of the financial support would not jeopardise the group company providing the support, its liquidity or solvency;

6) the provision of the financial support would not create a threat to financial stability in the Republic of Latvia or another Member State;

7) the group company providing the support complies, at the time when the support is provided, with the requirements governing the activity laid down for it and the provision of the financial support would not cause the group company to violate those requirements, unless authorised by the supervisory authority responsible for the supervision on an individual basis of the company providing the support;

8) the provision of the financial support would not undermine the resolvability of the group company providing the support.

[*16 February 2017*]

**Section 29.** The decision to provide or accept intra-group financial support according to the agreement shall be taken by the group company providing financial support. The decision shall be reasoned and shall indicate the objective of the proposed financial support and that it meets the conditions for the provision of the financial support.

**Section 30.** (1) Before providing support according to an intra-group financial support agreement, the group company that has intended to provide financial support shall notify the following thereof:

1) the Financial and Capital Market Commission;

2) the consolidating supervisor;

3) the supervisory authority of the company receiving the financial support;

4) the European Banking Authority.

(2) The notification shall include the decision taken by the group company registered in the Republic of Latvia on the provision of the intra-group financial support and details of the proposed financial support, including the group financial support agreement.

(3) Within five working days from the date of receipt of the notification, the Financial and Capital Market Commission may agree to the provision of financial support or may prohibit or restrict it if it establishes that the conditions for the provision of intra-group financial support referred to in Chapter V of this Law have not been met.

(4) The Financial and Capital Market Commission shall immediately make the decision to approve, prohibit, or restrict the financial support known to:

1) the consolidating supervisor;

2) the supervisory authority of the company receiving the financial support;

3) the European Banking Authority.

(5) The group company which has intended to provide financial support shall send its decision to provide financial support to:

1) the Financial and Capital Market Commission;

2) the consolidating supervisor;

3) the supervisory authority of the company receiving the financial support;

4) the European Banking Authority.

**Section 31.** (1) If the Financial and Capital Market Commission is a consolidating supervisory authority or if the company receiving the financial support is a group company registered in the Republic of Latvia which is supervised by the Financial and Capital Market Commission, a group company registered in another Member State which has intended to provide financial support shall notify the Financial and Capital Market Commission of the intention to provide financial support, and also send the decision to provide financial support.

(2) If the Financial and Capital Market Commission is a consolidating supervisory authority of a group company that intends to provide financial support, the Financial and Capital Market Commission shall immediately send the decision received from the supervisory authority of the group company that intends to provide financial support to other members of a college of supervisors and resolution college to approve, prohibit, or restrict the financial support, and also send the decision of the group company that intends to provide financial support on the provision of support.

(3) If the Financial and Capital Market Commission as a consolidating supervisory authority, supervising the company receiving the support, of the group company which has intended to provide financial support has objections against the decision of the supervisory authority of the company which has intended to provide financial support to prohibit or restrict the financial support, it is entitled to submit this issue for examination to the European Banking Authority in accordance with Article 31 of Regulation No 1093/2010 within two days.

(4) If the Financial and Capital Market Commission is a supervisory authority of the group company for which the financial support has been refused and if the group recovery plan includes reference to intra-group financial support, the Financial and Capital Market Commission is entitled request the consolidating supervisor to initiate a reassessment of the group recovery plan or, if a recovery plan is drawn up on an individual basis, to request the subsidiary registered in the Republic of Latvia to submit a revised recovery plan.

**Section 32.** A group company registered in the Republic of Latvia shall publish the information on its website on whether or not it has entered into a intra-group financial support agreement, providing a description of the general terms of the agreement and the names of the group companies that are party to it, and also update the published information at least annually in conformity with the requirements of Articles 431, 432, 433, and 434 of Regulation No 575/2013.

[*16 February 2017*]

**Chapter VI**

**Early Intervention Measures**

**Section 33.** (1) If an institution violates or in the near future is likely to violate the Credit Institution Law, the Law on Investment Firms, or the Financial Instrument Market Law, or the regulatory provisions of the Financial and Capital Market Commission, or directly applicable legal acts of the European Union (among other reasons, because the financial position of the institution rapidly deteriorates, including deterioration of liquidity indicators and increased level of leverage, non-performing loans, or exposure concentration which may significantly affect operation of the institution) that may also include the own funds requirements binding on the institution in accordance with Article 92(1) of Regulation No 575/2013 and the additional own funds requirement in accordance with Section 101.3, Paragraph 4.4, Clause 1 of the Credit Institution Law, the Financial and Capital Market Commission has the right to apply the following early intervention measures by determining time limit for the implementation of measures, without prejudice to its rights laid down in other laws and regulations to apply supervisory measures:

1) to request the institution to implement one or more of the measures provided for in the recovery plan or to update such a recovery plan if the circumstances that led to the early intervention are different from the assumptions set out in the initial recovery plan and to implement one or more of the measures provided for in the updated plan within a specific time limit;

2) to request the institution to determine measures according to the situation to overcome any established problems and to prepare an action programme to overcome the abovementioned problems and a timetable for its implementation;

3) to request the executive board of the institution to convene, or, if the executive board fails to comply with that request, to directly convene a meeting of shareholders, in both cases setting the agenda and requesting that the shareholders decide on the taking of specific decisions;

4) to request removal or replacement of one or more members of the executive board or supervisory board if the relevant persons are found unfit to perform their tasks in accordance with the requirements laid down for them in laws and regulations;

5) to request the institution to prepare a plan for negotiation on restructuring of debt with its creditors according to the recovery plan;

6) to request changes to be made in the business strategy of the institution;

7) to request changes to be made in the management or organisational structure of the institution;

8) to obtain, including through on-site inspections, all the information necessary to update the resolution plan, to prepare for the possible resolution of the institution and for the valuation of the assets and liabilities of the institution, and to request that all the necessary information is submitted.

(2) The Financial and Capital Market Commission has the right to request the institution to contact potential purchasers, thus preparing for the resolution of the institution, in conformity with the non-disclosure of information (confidentiality) provisions.

[*30 September 2021; 28 April 2022* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” and amendment regarding the replacement of the words “regulatory provisions” with the word “provisions” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraphs 4 and 13 of Transitional Provisions*]

**Section 34.** (1) Before application of early intervention measures or appointment of an authorised person in the European Union parent company registered in the Republic of Latvia, the Financial and Capital Market Commission shall inform the European Banking Authority, consult with other participants to a college of supervisors, and take the decision to apply early intervention measures or to appoint an authorised person, notifying the European Banking Authority and participants to the college of supervisors thereof. When taking the abovementioned decision, the Financial and Capital Market Commission shall take into account the impact thereof on the group companies in other Member States.

(2) If the supervisory authority of a subsidiary of a parent company of a Member State registered in the Republic of Latvia informs the Financial and Capital Market Commission of the intention to apply early intervention measures or to appoint an authorised person, the Financial and Capital Market Commission shall, within three working days, provide the impact assessment of the planned measures on the relevant company, group, or group companies in other Member States.

(3) If more than one supervisory authority of the group company managed by the parent company of a Member State registered in the Republic of Latvia has the intention to apply early intervention measures or to appoint an authorised person, the Financial and Capital Market Commission and other involved supervisory authorities shall consider appointment of one authorised person for all involved companies or application of early intervention measures to several institutions. The Financial and Capital Market Commission and the involved supervisory authorities shall, within five days after the Financial and Capital Market Commission has informed the European Banking Authority and the participants to the college of supervisors thereof, take the joint decision to be notified to the parent company of a Member State registered in the Republic of Latvia.

(4) If the joint decision has not been taken within the specified time limit, the Financial and Capital Market Commission may take the decision to apply early intervention measures or to appoint an authorised person for the institutions under supervision thereof.

**Section 35.** The provisions of the Credit Institution Law and the Financial Instrument Market Law shall be applicable to the right of the Financial and Capital Market Commission to appoint an authorised person in the institution and the procedures for his or her activity.

**Section 36.** (1) The Financial and Capital Market Commission shall, as the supervisory authority of the subsidiary of a European Union parent company of another Member State, provide its opinion to the college of supervisors on the supervision measure planned by other supervisory authorities of the group companies or on the appointment of an authorised person in the companies under their supervision.

(2) Before application of early intervention measures or appointment of an authorised person for the subsidiary of a European Union parent company of another Member State registered in the Republic of Latvia, the Financial and Capital Market Commission shall inform the European Banking Authority thereof and consult with other participants to the college of supervisors.

(3) After fulfilment of the provisions of Paragraph two of this Section, the Financial and Capital Market Commission shall, within three days, receive the assessment of the consolidating supervisor on the impact of the measures planned by the Financial and Capital Market Commission on the relevant company, group, or group companies in other Member States and, by having regard to it, take the decision to apply early intervention measures or to appoint an authorised person, notifying the participants to the college of supervisors thereof.

(4) If the Financial and Capital Market Commission has an intention to apply early intervention measures or to appoint an authorised person in respect of the group company of the European Union parent company of another Member State and another supervisory authority of this group in respect of the group company under the supervision thereof, the Financial and Capital Market Commission shall participate in taking the joint decision to appoint one authorised person for all involved companies or to apply early intervention measures to several institutions.

(5) If the joint decision is not taken within five working days after the supervisory authority of a European Union parent company of another Member State has informed participants to the college of supervisors, the Financial and Capital Market Commission is entitled to take the decision to apply early intervention measures or to appoint an authorised person for the institutions under its supervision.

**Section 37.** (1) When taking the decision referred to in Section 34 and applying Section 35 of this Law, the Financial and Capital Market Commission shall take into account the opinions of other involved supervisory authorities, and also possible impact on the financial stability in other Member States. If any of the involved supervisory authorities has referred to the European Banking Authority until taking of the decisions of the Financial and Capital Market Commission referred to in Sections 34 and 35 of this Law with a request to provide assistance in accordance with Article 19 of Regulation No 1093/2010, the Financial and Capital Market Commission shall defer taking of the decision and implement measures according to the decision of the European Banking Authority. If the European Banking Authority does not take the decision within three days, the decision shall be taken by the Financial and Capital Market Commission.

(2) The Financial and Capital Market Commission is entitled to refer to the European Banking Authority within the time period for taking of the joint decision with a request to provide assistance in taking of the joint decision on the measures intended in the recovery plan, the activities necessary for increasing of capital and liquidity, own funds of the institution, access to sources of the funds intended for emergency cases, the activities intended in the debt restructuring plan, the changes in the strategy of the activity of the institution, and also in accordance with Article 31(c) of Regulation No 1093/2010.

**Chapter VII**

**Resolution Actions and Resolution Tools**

**Section 38.** (1) When applying the resolution tools in respect of the institution under resolution, the Financial and Capital Market Commission shall choose the tools the use of which best achieves the following objectives of resolution:

1) to ensure the continuity of critical functions;

2) to avoid a significant adverse effect on the stability of the financial market and to maintain market discipline;

3) to protect State funds by minimising reliance on the State aid;

4) to protect the interests of depositors and investors;

5) to protect client funds and client assets.

(2) The Financial and Capital Market Commission shall seek to minimise the costs of resolution and to avoid destruction of value to the extent possible unless it is necessary to achieve the resolution objectives.

(3) All resolution objectives are of equal significance. When selecting and applying resolution actions to be implemented, the Financial and Capital Market Commission shall assess the proportionality of restrictions of the ownership rights of a person.

[*28 February 2019*]

**Section 39.** (1) The Financial and Capital Market Commission shall take a resolution action only if all of the resolution conditions are met:

1) the Financial and Capital Market Commission establishes that the institution has financial difficulties or, potentially, it will be in financial difficulties;

2) taking into account the limited time and other relevant circumstances, there is no reasonable prospect that alternative private sector measures taken in respect of the institution, including systems for the disbursement of compensations, or action of the Financial and Capital Market Commission, including early intervention measures or write-down or conversion of relevant capital instrument and eligible liabilities, would address financial difficulties of the institution within a reasonable time period;

3) the resolution action is necessary in the interests of the company in order to achieve one or more of the resolution objectives, it is commensurate with these objectives, and if the institution would apply insolvency proceedings these resolution objectives would not have been achieved to the same extent.

(2) The previous application of an early intervention measure shall not be considered grounds for taking a resolution action.

(3) The institution or financial company shall be considered to be in financial difficulties or, potentially, will be considered to be in financial difficulties if it meets one or more of the following conditions:

1) the institution or financial company violates or it is foreseeable that the institution or financial company will, in the near future, violate the requirements of the laws and regulations governing its activity and that would justify taking the decision to withdraw the licence (authorisation) for the activity of the institution or financial company, including if the institution or financial company has incurred or is likely to incur losses the compensation of which will significantly decrease own funds of the institution or financial company;

2) the assets of the institution or financial company are less than its liabilities or there are objective elements to support a determination that the assets of the institution or financial company will, in the near future, be less than its liabilities;

3) the institution or financial company is unable to pay its liabilities as they fall due or there are objective elements to support a determination that the institution or financial company will, in the near future, be unable to pay its liabilities as they fall due;

4) State aid is required for the institution or financial company, except for the case when it is provided as:

a) a State guarantee for liquidity facilities provided by Latvijas Banka according to their conditions;

b) a State guarantee of newly issued liabilities;

c) an injection of own funds and purchase of capital instruments at prices that do not confer an advantage upon the institution or financial company, provided that the institution or financial company is not or, potentially, will not be considered to be in financial difficulties and neither the circumstances referred to in Paragraph three, Clauses 1, 2, and 3 of this Section nor the circumstances referred to in Section 77, Paragraph three of this Law have set in at the time the State aid is granted.

(4) The State aid referred to in Paragraph three, Clause 4 of this Section shall be granted only to the institutions in respect of which a case of insolvency proceedings has not been initiated, and only after the decision of the European Commission on the compatibility of the State aid with the internal market of the European Union is received. The abovementioned measures are of precautionary and temporary nature, and they are proportionate to eliminate consequences of a serious disturbance and are not used to compensate for losses which have incurred or might incur by the institution in the near future.

(41) The State aid referred to in Paragraph three, Clause 4, Sub-clause “c” of this Section shall only be granted to the extent necessary to restore capital of the institution after capital shortfall detected in stress tests, asset quality checks of the European Union or the Single Supervisory Mechanism or equivalent checks carried out by the European Central Bank, the European Banking Authority, or a public institution.

(5) Having established that the institution or financial company meets the conditions of Paragraph three of this Section, the Financial and Capital Market Commission shall assess the conformity of the institution or financial company with the conditions of Paragraph one of this Section and take the decision on the resolution action to be applied or the decision to commence insolvency proceedings of the institution or financial company, justifying such decision accordingly.

[*16 February 2017; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 39.1** The Financial and Capital Market Commission may take a resolution action in respect of the central body and all its permanently affiliated institutions which belong to the same resolution group if the respective resolution group meets the conditions referred to Section 39, Paragraph one of this Law.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 39.2** If the institution or financial company meets the conditions referred to in Section 39, Paragraph one, Clauses 1 and 2 of this Law but the resolution action in accordance with Section 39, Paragraph one, Clause 3 of this Law would not be in the public interest, the institution or financial company shall be wound up in accordance with the procedures laid down in the Credit Institution Law.

[*30 September 2021*]

**Section 40.** (1) The Financial and Capital Market Commission may take a resolution action in respect of the financial institution referred to in Section 2, Paragraph two, Clause 2 of this Law if the conditions referred to in Section 39, Paragraph one of this Law are met with regard to both the financial institution and the parent company subject to consolidated supervision.

(2) The Financial and Capital Market Commission may take a resolution action in respect of the financial company referred to in Section 2, Paragraph two, Clauses 3 and 4 of this Law if it meets the conditions for taking the resolution action that have been referred to in Section 39, Paragraph one of this Law.

(3) If a financial holding company has a holding in the subsidiary of a mixed-activity holding company the resolution plan of which envisages that the mixed-activity holding company has been designated as a resolution entity, the group resolution shall be performed in respect of the financial holding company rather than in respect of the mixed-activity holding company.

(4) If the financial company referred to in Section 2, Paragraph two, Clauses 3 and 4 of this Law does not meet the conditions for taking the resolution action, the Financial and Capital Market Commission is entitled to take the resolution action in respect of the specific company if all of the following conditions are met:

1) the financial company is a resolution entity;

2) one or more subsidiaries of the financial company that are institutions but not resolution entities meet the conditions for taking the resolution action;

3) assets and liabilities of one or more subsidiaries of the financial company are such that the possible insolvency of such subsidiaries poses a threat to the whole resolution group and the resolution action in respect of the financial company is required to resolve the subsidiaries that are institutions or the whole resolution group.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 40.1** (1) The Financial and Capital Market Commission may suspend any payment or delivery obligations under any contract the party to which is an institution or financial company if all of the following conditions are met:

1) it has been established in accordance with Section 39, Paragraph one, Clause 1 of this Law that the relevant institution or financial company is or is likely to be in financial difficulties;

2) there are no readily available private sector measures referred to in Section 39, Paragraph one, Clause 2 of this Law that would avert insolvency of the institution or entity;

3) suspension is required to prevent future deterioration of the financial situation of the institution or resolution entity;

4) suspension is required to take any of the following actions:

a) establish that referred to in Section 39, Paragraph one, Clause 3 of this Law;

b) select appropriate resolution actions or ensure effective application of one or more resolution tools.

(2) The rights referred to in Paragraph one of this Section shall not be applicable to payment and delivery obligations to the following:

1) the systems and system operators specified in the law On Settlement Finality in Payment and Financial Instrument Settlement Systems;

2) the central counterparties authorised in the European Union in accordance with Article 14 of Regulation No 648/2012 and third-country central counterparties recognised by the European Securities and Markets Authority in accordance with Article 25 of the respective Regulation;

3) the central banks.

(3) The Financial and Capital Market Commission shall perform the suspension referred to in Paragraph one of this Section by taking into account the circumstances of each specific case. The Financial and Capital Market Commission shall properly consider how appropriate it would be to extend suspension in order to apply it also to eligible deposits in accordance with Section 1, Paragraph one, Clause 2 of the Deposit Guarantee Law and in particular to the deposits covered by natural persons, micro-enterprises, small and medium-sized enterprises.

(4) If the rights to suspend payment or delivery obligations that have been referred to in Paragraph one of this Section are exercised in respect of the covered deposits, the Financial and Capital Market Commission shall ensure that depositors have access to a proper amount of the respective deposits per day.

(5) The time period for suspension shall be as short as possible in accordance with Paragraph one of this Section and shall not exceed the minimum period which the Financial and Capital Market Commission considers necessary for the purposes referred to in Paragraph one, Clauses 3 and 4 of this Law, and it shall not be longer than the period from the moment when the notification on suspension is published in accordance with Paragraph ten of this Section to the midnight on the following day that is a working day.

(6) In exercising the rights referred to in Paragraph one of this Section, the Financial and Capital Market Commission shall take into account the potential impact of the exercise of such rights on proper functioning of the financial market, and also the rights of supervisory and judicial authorities to protect rights of creditors and equal treatment of creditors in insolvency proceedings. The Financial and Capital Market Commission shall in particular take account of possible application of insolvency proceedings to the institution or financial company as a result of the findings referred to in Section 39, Paragraph one, Clause 3 of this Law and take any measures which it considers appropriate to ensure proper coordination with administrative or judicial authorities.

(7) If payment or delivery obligations under the contract are suspended in accordance with Paragraph one of this Section, the payment or delivery obligations of any counterparty under the respective contract shall be suspended for the same time period.

(8) Payment or delivery obligations the time period for the fulfilment of which would have set in within the suspension period shall be fulfilled immediately after expiry of the suspension period.

(9) Prior to taking a resolution decision the Financial and Capital Market Commission shall immediately inform the institution and the authorities referred to in Section 104, Paragraph one, Clauses 1, 2, 3, 4, and 5 of this Law of exercising the rights referred to in Paragraph one of this Section if it is established that the institution becomes or is likely to become insolvent in accordance with Section 39, Paragraph one, Clause 1 of this Law.

(10) The Financial and Capital Market Commission shall, through the means referred to in Section 104, Paragraph two of this Law, publish a decision by which it suspends obligations in accordance with this Section or ensures that such decision is published indicating the conditions and suspension periods.

(11) This Section shall be without prejudice to the provisions contained in laws and regulations for granting the right to suspend payment or delivery obligations of institutions or financial companies prior to establishing that the respective institutions or financial companies become or are likely to become insolvent in accordance with Section 39, Paragraph one, Clause 1 of this Law, or suspend payment or delivery obligations of institutions or financial companies which are to be terminated in accordance with the insolvency proceedings and which exceed the scope and duration of application determined in this Section. The conditions referred to in this Section shall be without prejudice to the conditions that are related to such right to suspend payment or delivery obligations.

(12) When the Financial and Capital Market Commission exercises the right to suspend payment or delivery obligations in respect of the institution or financial company in accordance with Paragraph one of this Section, the Financial and Capital Market Commission may also exercise the following rights within the suspension period:

1) to restrict the secured creditors of the respective institution or financial company in the exercise of their security rights in relation to any assets of the respective institution or financial company for the same period. In such case, Section 92, Paragraphs two and three of this Law shall be applied;

2) to suspend any termination rights of a party to the contract concluded with the respective institution or financial company for the same period. In such case, Section 93, Paragraphs two, three, four, five, six, seven, and eight of this Law shall be applied.

(13) If after establishing that the institution or financial company becomes or is likely to become insolvent in accordance with Section 39, Paragraph one, Clause 1 of this Law the Financial and Capital Market Commission has exercised the right to suspend payment or delivery obligations in the circumstances referred to in Paragraph one or eleven of this Section and if the resolution action has been taken subsequently in respect of that institution or financial company, the Financial and Capital Market Commission shall not exercise the rights specified in Section 91, Paragraph one, Section 92, Paragraph one, or Section 93, Paragraph one of this Law in respect of the abovementioned institution or financial company.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 41.** (1) When applying the resolution tools and implementing the resolution powers, the Financial and Capital Market Commission shall comply with the following principles:

1) the shareholders of the institution under resolution and persons owning other instruments of ownership bear first losses;

2) following shareholders and persons owning other instruments of ownership, losses are borne by creditors of the institution under resolution in accordance with the creditors’ satisfaction round specified in the Credit Institution Law, except for the cases where it is otherwise provided in this Law;

3) a new executive board and supervisory board of the institution under resolution is appointed, except for the cases where full or partial maintenance thereof is necessary for the achievement of the resolution objectives;

4) an executive board and supervisory board of the institution under resolution provides necessary assistance for the achievement of the resolution objectives;

5) creditors of the same class are treated in an equitable manner;

6) no creditor shall incur greater losses than would have been incurred if the institution or financial company had been wound up;

7) covered deposits are fully protected;

8) resolution action is taken in accordance with that laid down in this Law.

(2) If the institution is a group company, the Financial and Capital Market Commission shall apply resolution tools and implement resolution powers in a way that minimises the impact on other group companies and on the group as a whole and minimises the adverse effect on financial stability in the Member States, in particular in those where the group operates.

(3) When applying resolution tools and implementing resolution powers, the resolution authority shall inform employee representatives and consult with them.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 42.** (1) When removing the supervisory board and executive board of the institution under resolution, the Financial and Capital Market Commission is entitled to appoint a special manager whose obligation is to take all the necessary measures, including increase of capital, changes in the composition of stockholders and shareholders or transfer of the institution under control of financially and organisationally stable institutions in order to promote achievement of the resolution objectives and to implement resolution actions according to the decision of the Financial and Capital Market Commission.

(2) The requirements laid down for authorised persons in the Credit Institution Law and the Financial Instrument Market Law shall be applied in relation to the procedures for the appointment of a special manager. The legal norms included in the Credit Institution Law and the Financial Instrument Market Law shall be applied in relation to the special manager insofar as it is provided for otherwise in this Law.

(3) The Financial and Capital Market Commission shall publish the information on the appointment of a special manager on its website.

(4) The special manager has all the powers of the meeting of shareholders, executive board, and supervisory board which he or she exercises under the control of the Financial and Capital Market Commission. The obligations of the executive board and supervisory board laid down in articles of association or laws and regulations shall not be binding on the special manager insofar as they are in conflict with the performance of the obligations of the special manager.

(5) The special manager shall draw up reports on the economic and financial situation of the institution under resolution and on the activities which he or she has performed during the performance of his or her duties at the beginning and end of his or her powers, and also upon request of the Financial and Capital Market Commission.

(6) The special manager shall be appointed for a period which does not exceed one year. That period may be extended on an exceptional basis if the Financial and Capital Market Commission considers that conditions for the appointment of the special manager are still present.

(7) If, along with the Financial and Capital Market Commission, the resolution authority of another Member State also has the intention to appoint a special manager to a company that is part of a group, the Financial and Capital Market Commission and the relevant resolution authority shall consider the need to appoint the same special manager to all the companies concerned.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 43.** (1) The Financial and Capital Market Commission has the right to apply one or more of the following resolution tools to the institution or financial company that meets the conditions for the application of resolution:

1) the sale of business tool;

2) the bridge institution tool;

3) the asset separation tool;

4) the bail-in tool.

(2) In selecting the applicable resolution tool, the Financial and Capital Market Commission shall consider whether in the case of application of the relevant resolution tool limitation of ownership of creditors, shareholders, and persons owning other instruments of ownership is proportionate to the public interest. In the case of application of resolution tools the consideration specified in this Law is due to shareholders of the institution or financial company, persons owning other instruments of ownership, or creditors.

(21) If the decision of the Financial and Capital Market Commission to apply a resolution tool to the institution or financial company results in losses being borne by creditors or their claims being converted, the Financial and Capital Market Commission shall exercise the write-down or conversion powers in respect of the relevant capital instruments and eligible liabilities before or concurrently with the application of one or more resolution tools.

(3) The asset separation tool may be applied only together with another resolution tool.

(4) If the sale of business tool or bridge institution tool is used to transfer only part of the assets, rights, or liabilities of the institution under resolution, the company the assets, rights, or liabilities of which have been transferred having regard to the resolution objectives, shall be wound up.

(5) The Financial and Capital Market Commission and the relevant financing fund of resolution actions are entitled to receive consideration for any reasonable expenditures incurred in connection with the use of the resolution tools in one or more of the following ways:

1) as a deduction from any consideration received by the institution under resolution or its shareholders, and also persons owning other instruments of ownership;

2) from the institution under resolution, as a preferred creditor;

3) from any proceeds generated as a result of the termination of the operation of the bridge institution or the asset management company, as a preferred creditor.

(6) The right of creditors to appeal the decisions taken, infringing the interests of creditors specified in the laws and regulations governing insolvency proceedings, shall not be applicable to the separation of assets, rights, or obligations of the institutions under resolution for other company by applying a resolution tool, implementing resolution rights, or applying additional financial stabilisation tools.

(7) If the State aid is provided within the scope of resolution, before provision thereof it is necessary to receive the decision of the European Commission on compatibility of the State aid with the internal market of the European Union.

[*16 February 2017; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 44.** (1) If the Financial and Capital Market Commission plans to take resolution action in respect of the institution, but the institution, creditor or group of creditors, or administrator submits an insolvency application in another insolvency proceeding to the Financial and Capital Market Commission, the Financial and Capital Market Commission shall take the decision to refuse the application.

(2) If the Financial and Capital Market Commission does not plan to take resolution action in respect of the institution, the procedures for the assessment of the justification of the insolvency application of the institution shall be determined by the Credit Institution Law and the Law on Investment Firms.

(3) Upon the application of the Financial and Capital Market Commission, the court may initiate insolvency proceedings against the company referred to in Section 2, Paragraph two, Clauses 3 and 4 of this Law. Upon receipt of the insolvency application of the company referred to in Section 2, Paragraph two, Clauses 3 and 4 of this Law, the court shall inform the Financial and Capital Market Commission.

(4) After fulfilling the information obligation specified in Paragraph three of this Section, the court may examine the insolvency application of the company referred to in Section 2, Paragraph two, Clauses 3 and 4 of this Law, if the Financial and Capital Market Commission has notified the court that it is not planning to take any resolution action in respect of the abovementioned company, or has not provided a reply within seven days.

[*28 April 2022* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraphs 4 and 13 of Transitional Provisions*]

**Chapter VIII**

**Valuation**

**Section 45.** (1) Prior to applying resolution tools or writing down the relevant capital instruments and eligible liabilities, or implementing conversion powers in accordance with the rights laid down in Section 77 of this Law, a person independent from any direct and indirect administration authorities, the Financial and Capital Market Commission, and also the institution or financial company, namely the valuer (hereinafter also – the valuer), shall prepare a fair and objective valuation of the assets and liabilities of the institution or financial company. The valuation shall be considered to be definitive if all the requirements laid down in this Chapter are fulfilled.

(2) If the valuer cannot prepare a valuation in accordance with Paragraph one of this Section, the Financial and Capital Market Commission may carry out a provisional valuation of the assets and liabilities.

(3) For the purpose of achieving the evaluation objective, it shall be required to take the following activities:

1) to obtain information in order to detect whether the conditions for resolution or the conditions for the write-down or conversion of capital instruments and eligible liabilities are met;

2) to obtain information in order to take the decision to apply an appropriate resolution tool;

3) in writing down or converting the relevant capital instruments and eligible liabilities, to obtain information in order to take the decision on the extent of the cancellation or dilution of shares or other instruments of ownership and on the extent of the write-down or conversion of the relevant capital instruments and eligible liabilities;

4) in applying the bail-in tool, to obtain information in order to take the decision on the extent of the write-down or conversion of bail-inable liabilities;

5) in applying the bridge institution tool or asset separation tool, to obtain information in order to take the decision on the assets, rights, liabilities, shares, or other instruments of ownership to be transferred and the decision on the extent of any consideration to be disbursed to the institution under resolution, shareholders, or persons owning other instruments of ownership;

6) in applying the sale of business tool, to obtain information in order to take the decision on the assets, rights, liabilities, shares, or other instruments of ownership to be transferred;

7) to ensure that all losses on the assets of the institution or financial company are fully recognised at the moment the resolution tools are applied or the power to write down or convert relevant capital instruments and eligible liabilities is implemented.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 46.** (1) The valuation shall be based on prudent assumptions, and also on the default risk and the amount of losses. The valuation does not include an assumption that the State aid and emergency liquidity assistance could be provided to the institution or financial company.

(2) The valuation shall take account of the fact that if any resolution tool is applied:

1) the Financial and Capital Market Commission and the resolution fund may receive consideration for all reasonable expenditures properly incurred from the institution under resolution in accordance with that referred to in Section 43, Paragraph five of this Law;

2) the resolution fund may charge interest or fees in respect of any loans or guarantees provided to the institution under resolution.

(3) The valuation shall be supplemented with the following information as appearing in the accounting records and source documents of the institution or financial company:

1) an updated balance sheet and a report on the financial position of the institution or financial company;

2) an analysis of the structure of the assets and an estimate of the accounting value of the assets;

3) the list of outstanding on-balance-sheet and off-balance-sheet liabilities shown in the accounting records and source documents of the institution or financial company with an indication of the respective credits and priority levels in accordance with the applicable laws and regulation governing insolvency.

(4) In order to acquire the necessary information for taking the decisions referred to in Section 45, Paragraph three, Clauses 5 and 6 of this Law, the information referred to in Paragraph three, Clause 2 of this Section may be supplemented with an analysis of the structure of assets and liabilities of the institution or financial company and an estimate of the fair value thereof which has been made on the day of preparing the valuation and determined on the basis of the International Accounting Standards and International Financial Reporting Standards approved by the European Commission.

(5) The valuation shall indicate the division of claims of creditors in classes in conformity with the priority level thereof in accordance with the laws and regulations governing insolvency and estimate what conditions could be applied to each class of shareholders, persons who own other instruments of ownership, and creditors if insolvency proceedings would be commenced in respect of the institution or financial company. The abovementioned estimate shall not apply to the valuation which is prepared in accordance with Section 96 of this Law.

**Section 47.** (1) If, due to urgency in the situation, either it is not possible to comply with the requirements of Section 46 of this Law, or Section 45, Paragraph two of this Law is applied, the Financial and Capital Market Commission or valuer shall prepare a provisional valuation. The provisional valuation shall include a reserve for additional losses, justifying it accordingly.

(2) A valuation that does not conform to all the requirements laid down in this Chapter shall be considered to be provisional until the valuer has prepared a definitive evaluation that is fully compliant with all of the requirements laid down in this Chapter. The definitive valuation may be carried out either separately from the valuation referred to in Section 96 of this Law or simultaneously with it and both valuations may be carried out by the same valuer, but they shall be considered to be two separate valuations.

(3) The objectives of preparation of the definitive valuation shall be:

1) to ensure that any losses on the assets of the institution and financial company are fully recognised in the accounting records of the institution and financial company;

2) to acquire information in order to take the decision to write back claims of creditors or to increase the value of the consideration disbursed in accordance with the requirements of this Law.

(4) If the definitive valuation establishes that the net asset value of the institution or financial company is higher than the provisional valuation of the net asset value of the institution or financial company, the Financial and Capital Market Commission is entitled to:

1) exercise its right to increase the value of the claims of creditors which have been written down under the bail-in tool or persons owning the relevant capital instruments and eligible liabilities;

2) instruct a bridge institution or asset management company to make further payments of consideration in respect of the assets, rights, or liabilities to an institution under resolution or to the persons owning shares or other instruments of ownership.

(5) A provisional valuation may serve as a valid basis for the Financial and Capital Market Commission to apply resolution tools, take control of the institution under resolution which might become insolvent, or to implement the power to write down or convert the relevant capital instruments and eligible liabilities.

(6) The valuation shall be an integral part of the decision to apply a resolution tool or implement the resolution power or the write-down or conversion power of the relevant capital instruments and eligible liabilities.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Chapter IX**

**Sale of Business Tool**

[*30 September 2021*]

**Section 48.** (1) The Financial and Capital Market Commission may transfer to a purchaser that is not a bridge institution shares, other instruments of ownership, assets, rights, or liabilities of an institution under resolution (hereinafter – the sale of business tool) without obtaining the consent of the shareholders or those persons who own other instruments of ownership and without complying with other requirements laid down in laws and regulations in respect of the procedures for the transfer of instruments of ownership, assets, rights, or liabilities.

(2) The sale of business tool shall be applied on the basis of a legal transaction concluded according to civil legal procedures having regard to the valuation made by the valuer, and also in accordance with the legal framework of State aid.

(3) A consideration disbursed by the purchaser for the sale of business shall be disbursed to:

1) the shareholders and persons who own other instruments of ownership, if the sale of business has been effected by transferring the shares of shareholders or instruments of ownership of the persons who own other instruments of ownership of the institution under resolution to the purchaser;

2) the institution under resolution, if the sale of business has been effected by transferring the assets or liabilities of the institution under resolution to the acquirer.

(31) In applying the sale of business tool, the Financial and Capital Market Commission may implement transfer powers several times in order to carry out additional transfer of shares or other instruments of ownership or assets, rights, or liabilities of the institution under resolution.

(4) Upon applying the sale of business tool, the Financial and Capital Market Commission is entitled, with the consent of the purchaser, to transfer the assets, rights, or liabilities of the institution under regulation transferred to it back to the institution under resolution, or the shares or other instruments of ownership back to their original shareholders or persons who owned other instruments of ownership, and the institution under resolution and these persons have an obligation to take them back.

(5) The Financial and Capital Market Commission shall ensure that the application received from the purchaser is examined in a timely manner. If, upon applying the sale of business tool, the purchaser has not obtained a permit for acquiring a qualifying holding, such transfer of shares or other instruments of ownership to the purchaser shall enter into effect under the following conditions:

1) during the assessment period or during the divestment period specified in Clause 4 of this Paragraph the voting rights of the purchaser attached to such shares or other instruments of ownership are suspended and vested solely in the Financial and Capital Market Commission which shall have no obligation to exercise such voting rights and which shall have no liability whatsoever for exercising or refraining from exercising such voting rights;

2) during the assessment period or during the divestment period specified in Clause 4 of this Paragraph, the sanctions for violations of the requirements for the acquisition or reduction of a qualifying holding shall not apply to such a transfer of shares or other instruments of ownership;

3) if a permit for acquiring a qualifying holding is issued to the purchaser, the purchaser shall acquire voting rights in relation to shares, other instruments of ownership, assets, rights, or liabilities of the institution under resolution owned by it, upon obtaining the permit to acquire a qualifying holding in the institution under resolution;

4) if the purchaser is prohibited from acquiring a qualifying holding, the Financial and Capital Market Commission is entitled to impose an obligation on the purchaser to dispose of shares or other instruments of ownership of the institution under resolution owned by it within the specified time period;

5) if the purchaser has failed to dispose of such shares or other instruments of ownership within the divestment period specified by the resolution authority, the Financial and Capital Market Commission is entitled to impose sanctions and administrative measures in respect of the purchaser for violations of the requirements for the acquisition or reduction of a qualifying holding provided for in the Credit Institution Law and the Law on Investment Firms.

(6) The purchaser may still exercise the rights of the institution under resolution to provide financial services in another Member State and also exercise the membership rights and access to payment systems, regulated market organiser, investor protection schemes, and deposit guarantee schemes of the institution under resolution if the purchaser meets the membership criteria in such systems. If the purchaser does not meet the membership criteria for a relevant payment, clearing or settlement system, regulated market organiser, investor protection schemes, or deposit guarantee scheme, the Financial and Capital Market Commission is entitled to set a time period not exceeding 24 months, during which the purchaser may use the membership and access rights of the institution under resolution to the abovementioned systems and which the Financial and Capital Market Commission may extend upon request of the purchaser. Access to the abovementioned systems is not denied on the grounds that the purchaser does not possess a rating from a credit rating agency or that rating is not commensurate with the rating levels required.

(7) Shareholders, persons who own other instruments of ownership, or creditors of the institution under resolution and other third parties the assets, rights, or liabilities of which are not transferred shall not have any rights over the assets, rights, or liabilities transferred or rights related thereto.

[*16 February 2017; 23 September 2021; 30 September 2021; 28 April 2022* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraphs 4 and 13 of Transitional Provisions*]

**Section 49.** (1) The Financial and Capital Market Commission shall ensure that transfer of shares, other instruments of ownership, assets, rights, or liabilities is as transparent as possible, does not misrepresent, is free from conflicts of interest or unfair advantages to a potential purchaser, does not apply unduly favour or discriminate between potential purchasers, takes account of actual circumstances, the need to effect a rapid resolution and retain financial stability. When applying the sale of business tool, the objective is to achieve higher sales price for the relevant shares or other instruments of ownership, assets, rights, or liabilities.

(11) Rights, assets, and liabilities combined in portfolios may be traded separately.

(2) Public disclosure of the information related to the sale transaction of the institution under resolution which the institution has an obligation to disclose to the public in conformity with Article 17(1) of Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (Text with EEA relevance) may be postponed in accordance with Article 17(4) or (5) of the respective Regulation.

(3) The Financial and Capital Market Commission may apply the sale of business tool without compliance with Paragraph one of this Section if it detects that conformity to those requirements and principles could pose a threat to the achievement of one or more of the resolution objectives and in particular if it considers that financial difficulties or possible insolvency of the institution under resolution causes or increases a material threat to financial stability or conformity to the requirements could undermine effectiveness of the sale of business tool in addressing that threat or achievement of the resolution objective referred to in Section 38, Paragraph one, Clause 2 of this Law.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Chapter X**

**Bridge Institution Tool and Asset Separation Tool**

**Section 50.** (1) In order to apply a bridge institution tool having regard to the need to retain critical functions of the bridge institution, the Financial and Capital Market Commission is entitled to transfer shares, other instruments of ownership, assets, rights, or liabilities of one or more institutions under resolution to the bridge institution without consent of the shareholders or persons who own other instruments of ownership of the institution under resolution without complying with the procedures for transfer of instruments of ownership, assets, rights, or liabilities laid down in other laws and regulations.

(2) A bridge institution is a legal person which meets the following requirements:

1) one or more direct or indirect administration authorities have a qualifying holding therein, and it is under supervision of the Financial and Capital Market Commission;

2) it has been established in order to receive and hold several or all shares or other instruments of ownership of the institutions under resolution or assets, rights, or liabilities of one or several institutions under resolution in order to continue several or all functions, services, and activities of the institution under resolution.

(3) Application of the bail-in tool for the purpose referred to in Section 53, Paragraph one, Clause 2 of this Law shall not affect the right of the Financial and Capital Market Commission to control the bridge institution.

(4) When applying a bridge institution tool, the Financial and Capital Market Commission shall ensure that the total value of the liabilities transferred to the bridge institution does not exceed the total value of the rights and assets acquired from the institution under resolution or other sources.

(5) Consideration for the application of a resolution tool which is paid by a bridge institution shall be disbursed to:

1) the persons who own shares or other instruments of ownership and whose shares or other instruments of ownership have been transferred to the bridge institution;

2) the institution under resolution if the assets or liabilities of the institution under resolution have been transferred to the bridge institution.

(6) When applying a bridge institution tool, the Financial and Capital Market Commission may implement transfer powers for several times in order to carry out additional transfer of the shares or other instruments of ownership or assets, rights, or liabilities of the institution under resolution.

(7) The Financial and Capital Market Commission may transfer the shares or other instruments of ownership transferred to the bridge institution back to their initial shareholders or holders of other instruments of ownership, and also transfer the assets, rights, or liabilities transferred to the bridge institution back to the institution under resolution if such possibility has been provided upon implementing the transfer, or if such shares or such other instruments of ownership, assets, rights,or liabilities have been transferred the transfer of which has not been provided for in the contract, and these persons and institution under resolution have an obligation to accept them.

(8) The shares, other instruments of ownership, assets, rights, or liabilities transferred to the bridge institution may be transferred to a third person by the Financial and Capital Market Commission.

(9) The bridge institution may still exercise the rights of the institution under resolution to provide financial services in another Member State, membership rights and access to payment systems, regulated market organiser, investor protection schemes, and deposit guarantee schemes of the institution under resolution if it meets the membership criteria in such systems.

(10) If the bridge institution does not meet the membership criteria in the relevant payment system, regulated market organiser, investor protection scheme, or deposit guarantee scheme, the Financial and Capital Market Commission is entitled to set a time period not exceeding 24 months during which the bridge institution may use the membership and access rights of the institution under resolution to the abovementioned systems and which the Financial and Capital Market Commission may extend upon request of the institution under resolution.

(11) Access to the payment systems is not denied on the ground that the bridge institution does not possess a rating from a credit rating agency or that rating is not commensurate with the rating levels required. In other fields of activity the bridge institution may be considered to be a successor in the assets, liabilities, and rights of the institution under resolution.

(12) Shareholders of the institution under resolution, those persons who own other instruments of ownership, or creditors and other third parties whose assets, rights, or liabilities are not transferred to the bridge institution shall not have any rights to the assets, rights, or liabilities transferred or rights related thereto.

(13) A bridge institution shall not imply any duty or responsibility to shareholders of the institution under resolution or persons who own other instruments of ownership, and the executive board and supervisory board, or senior management shall have no liability to such shareholders or persons who own other instruments of ownership, or creditors for acts or omissions in the course of their duties, except for gross negligence which directly affects the interests of shareholders of the institution under resolution or persons who own other instruments of ownership, or creditors.

[*16 February 2017; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 51.** (1) The Financial and Capital Market Commission shall approve the constitutional documents and strategy of operation, supervisory board and executive board of the bridge institution, and also the remuneration and office duties of the members of the supervisory board and executive board. The bridge institution has an obligation to perform the tasks and functions specified in laws and regulations which it takes over from the institution under resolution, and the Financial and Capital Market Commission shall supervise the bridge institution. If it is necessary for the achievement of the resolution objectives, the Financial and Capital Market Commission may permit non-compliance with the requirements of the laws and regulations governing the activity of institutions for a certain period of time.

(2) The executive board and supervisory board of the bridge institution shall seek to retain access to critical functions and sell their shares, other instruments of ownership, assets, rights, or liabilities to private sector purchasers under appropriate conditions within the time period specified in this Law.

(3) The Financial and Capital Market Commission shall decide that the bridge institution loses its status in any of the following cases:

1) the bridge institution merges with another company;

2) it ceases to meet the requirements laid down for the bridge institution;

3) the sale of the largest part of the assets, rights, or liabilities of the bridge institution to a third party;

4) the expiry of the period specified for the operation of the bridge institution has set in;

5) the assets of the bridge institution are completely wound down and its liabilities are completely discharged.

(4) When selling the bridge institution, its assets or liabilities, the Financial and Capital Market Commission shall ensure that the sale process is transparent as much as possible, does not misrepresent and discriminate between potential purchasers. The sale shall be made according to legal transactions entered into in accordance with civil legal procedures, taking into account the valuation of the valuer, and also in accordance with the legal framework of State aid.

(5) The Financial and Capital Market Commission shall terminate the operation of a bridge institution as soon as possible, however not later than two years after the day when the shares, other instruments of ownership, assets, rights, or liabilities of the institution under resolution have been transferred to the bridge institution, using an instrument of the bridge institution. The Financial and Capital Market Commission is entitled to extend the abovementioned time period one or more times for a period of one year provided that such extension is necessary to support achievement of the objectives referred to in Paragraph three, Clauses 1, 2, 3, and 5 of this Section or ensure continuity of the essential financial services of the institution.

(6) If a bridge institution loses its status because all its assets, rights, or liabilities have been sold to a third person, or if the bridge institution is used for transfer of assets and liabilities of more than one institution under resolution and all assets, rights, and liabilities which have been transferred from each institution under resolution have been sold, or the time period specified for the its operation has set in, the bridge institution shall be wound up in accordance with the general procedures laid down in the law.

(7) Income which is obtained as a result of termination of a bridge institution shall be disbursed to the shareholders of the bridge institution or those persons who own other instruments of ownership.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 52.** (1) The Financial and Capital Market Commission has the right to transfer the assets, rights, or liabilities of the institution under resolution or bridge institution to one or more asset management companies without consent of the shareholders of the institution under resolution or persons who own other instruments of ownership and without complying with the procedures for transfer of assets, rights, or liabilities specified in other laws and regulations if the sale of such assets, rights, or liabilities in case of winding up could have adverse effect on the stability of financial market and if such transfer is necessary in order to ensure due operation of the institution under resolution or bridge institution or to increase income from the sale of assets, rights, or liabilities of the institution under resolution as much as possible (hereinafter – the asset separation tool).

(2) An asset management company shall manage the assets transferred to it with the objective to increase their value in case of asset sale.

(3) The Financial and Capital Market Commission shall approve the constitutional documents and strategy of operation, supervisory board and executive board of the asset management company, and also the remuneration and office duties of the members of the supervisory board and executive board.

(4) When applying the asset resolution tool, the Financial and Capital Market Commission shall determine the consideration for which assets, rights, and liabilities are transferred to the asset management company in conformity with the assessment principles laid down in this Law and the legal framework of State aid. Such consideration may be equal with their nominal value or be lower than their nominal value.

(5) A consideration for assets, rights, or liabilities transferred to an asset management company shall be disbursed to an institution under resolution. The consideration may be disbursed in the form of debt securities issued by the asset management company.

(51) If the bridge institution tool has been applied, the asset management company may take over assets, rights, or liabilities from the bridge institution after application of the bridge institution tool.

(52) The Financial and Capital Market Commission may implement transfer powers several times in order to carry out additional transfer of shares or other instruments of ownership or assets, rights, or liabilities of the institution under resolution.

(6) The Financial and Capital Market Commission is entitled to transfer the assets, rights, or liabilities transferred to the asset management company back to the institution under resolution if such possibility has been provided when making the transfer or if such assets, rights, or liabilities have been transferred the transfer of which has not been provided for in the contract, and the institution under resolution has an obligation to accept them.

(7) Shareholders of the institution under resolution or those persons who own other instruments of ownership, or creditors and other third parties whose assets, rights, or liabilities are not transferred shall not have any rights to the assets, rights, or liabilities transferred to the asset management company or to related rights arising therefrom.

(8) An asset management company shall not imply any duty or responsibility to shareholders of the institution under resolution or those persons who own other instruments of ownership, or creditors, and also its executive board and supervisory board shall have no liability to such shareholders and persons who own other instruments of ownership or creditors for acts or omissions in the course of their duties, except for gross negligence which directly affects the interests of shareholders of the institution under resolution, those persons who own other instruments of ownership, or creditors.

[*16 February 2017; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Chapter XI**

**Bail-in Tool**

**Section 53.** (1) The Financial and Capital Market Commission may apply bail-in tool according to the resolution principles for any of the following objectives:

1) to recapitalise the institution or financial company that meets the resolution conditions to the extent sufficient to restore its ability to meet the conditions for obtaining the licence (authorisation) in accordance with the requirements of the Credit Institution Law or the Law on Investment Firms, and to continue activities for which it has obtained the licence (authorisation) in accordance with the respective laws, and also to restore trust of market operators and public in the institution or financial company;

2) to convert into equity or to reduce the principal amount of claims or debt instruments which is transferred to a bridge institution for the provision of capital for it or transferred, using the sale of business tool or the asset separation tool.

(2) The Financial and Capital Market Commission may apply bail-in tool to reach the objective referred to in Paragraph one, Clause 1 of this Section if there is a reasonable prospect that the application of that tool will help to achieve the relevant resolution objectives and will restore the financial stability of the relevant institution or financial company.

(3) If the conditions referred to in Paragraph two of this Section are not met, the Financial and Capital Market Commission may apply other resolution tools and bail-in tool for the purpose referred to in Paragraph one, Clause 2 of this Section.

[*30 September 2021; 28 April 2022* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraphs 4 and 13 of Transitional Provisions*]

**Section 54.** (1) The bail-in tool shall be applied to all liabilities of the institution or financial company, except for:

1) the covered deposits. The Financial and Capital Market Commission is entitled to implement write-down or conversion power in respect of any deposit amount which exceeds the amount of covered deposits specified in the Deposit Guarantee Law;

2) secured liabilities, including covered bonds and liabilities in the form of financial instruments used for hedging purposes. Such liabilities shall form an integral part of the cover pool and, in accordance with the procedures laid down in laws and regulations, are secured in a way similar to covered bonds;

3) any liability that arises by virtue of the holding by the institution or financial company of client assets if, in accordance with the applicable laws and regulations governing insolvency, such client assets are not included in the list of the property of the institution or financial company in the insolvency proceedings;

4) any liability that arises by virtue of fiduciary operations (trust) between the institution or financial company and the client if, in accordance with the applicable laws and regulations governing insolvency, such client assets are not included in the list of the property of the institution or financial company in the insolvency proceedings;

5) liabilities to institutions, except for the companies that are part of the same group, with an original maturity of less than seven days;

6) liabilities in respect of the systems or system operators which have been specified in the law On Settlement Finality in Payment and Financial Instrument Settlement Systems or in respect of members thereof if the residual maturity of such liabilities is less than seven days and if they arise from the participation in such system, or liabilities in respect of the central counterparties authorised in the European Union in accordance with Article 14 of Regulation No 648/2012 and third-country central counterparties recognised by the European Securities and Markets Authority in accordance with Article 25 of the respective Regulation;

7) liabilities in respect of accrued salary, pension benefits, or another fixed component of remuneration of an official and employee, except for the variable component of remuneration which is not regulated by a collective bargaining agreement. The exception in respect to the variable component of remuneration which is regulated by a collective bargaining agreement shall not be applied to such officials or employees the performance of whose professional work duties significantly influences risk profile of the institution or financial company;

8) liabilities in respect of a creditor if they are arising from the basic resources or basic services necessary for the provision of commercial activity of the institution or financial company, including information technology services, utilities, and also provision of the rental, servicing, and upkeep of premises;

9) liabilities in relation to tax and other payments (debts) to the State budget and local government budgets and mandatory State social insurance contributions;

10) liabilities in respect of deposit guarantee schemes arising from the requirements of the Deposit Guarantee Law.

11) liabilities (irrespective of maturity thereof) in respect of institutions that are part of the same resolution group but are not resolution entities themselves, except where the respective liabilities rank after normal unsecured liabilities in accordance with the relevant laws and regulations governing insolvency proceedings. In cases where the respective exception is applicable, the Financial and Capital Market Commission shall, as the resolution authority of the relevant subsidiary that is not the resolution entity, assess whether the amount of the items which correspond to Section 61, Paragraph six of this Law is sufficient to support the implementation of the most appropriate resolution strategy.

(2) The institution or financial company shall ensure that all assets which are collateral of liabilities and are related to a covered bond cover pool remain unaffected and segregated, and that such assets have enough funding. The Financial and Capital Market Commission, where appropriate, is entitled to implement the write-down or conversion power in relation to any part of a secured liability or a liability for which collateral has been pledged which exceeds the value of the assets, pledge, lien, or collateral against which it is secured.

(3) In order to ensure resolvability of institutions and groups, the Financial and Capital Market Commission, without prejudice to the requirements of Regulation No 575/2013, the Credit Institution Law, the Law on Investment Firms, and the Law on Investment Management Companies in respect of large exposures, is entitled to limit, in accordance with the requirements laid down in Section 20, Paragraph eight, Clause 2 of this Law, the extent of an exposure with another institution if bail-inable liabilities are incurred by such exposure, except for the liabilities that may be incurred between companies that are part of the same group.

(4) In exceptional circumstances, where the bail-in tool is applied, the Financial and Capital Market Commission is entitled to exclude or partially exclude certain liabilities from the application of the write-down or conversion powers in any of the following cases:

1) the liabilities cannot be bailed-in within a reasonable time period;

2) the exclusion is necessary and is commensurate in order to ensure the continuity of critical functions and core business lines of the institution under resolution;

3) the exclusion is necessary and commensurate in order to prevent adverse effects, in particular as regards eligible deposits held by natural persons and micro, small and medium sized-enterprises, which would severely disrupt the functioning of financial markets, including of financial market infrastructures, in a manner that could cause a serious disturbance to the national economy of the Republic of Latvia or of the European Union;

4) the application of the bail-in tool to the abovementioned liabilities would cause a destruction in value such that the losses borne by other creditors would be higher than if the abovementioned liabilities were excluded from bail-in.

[*16 February 2017; 30 September 2021; 28 April 2022* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraphs 4 and 13 of Transitional Provisions*]

**Section 55.** (1) In order to ensure effective implementation of the resolution strategy, the Financial and Capital Market Commission shall properly consider whether the liabilities to institutions or financial companies which are part of the same resolution group but are not resolution entities themselves and are not excluded from application of write-down or conversion power in accordance with Section 54, Paragraph one, Clause 11 of this Law are to be excluded or partly excluded in accordance with Section 54, Paragraph four, Clauses 1, 2, 3, or 4 of this Law.

(2) If the Financial and Capital Market Commission decides to exclude or partly exclude bail-inable liabilities or class of bail-inable liabilities in accordance with Paragraph one of this Section, the level of write-down or conversion applicable to other bail-inable liabilities may be increased in order to take account of such exclusion provided that the principle referred to in Section 41, Paragraph one, Clause 6 of this Law is followed while increasing the level of write-down or conversion applicable to other bail-inable liabilities.

(3) If the Financial and Capital Market Commission decides to exclude or partly exclude bail-inable liabilities or class of bail-inable liabilities in accordance with this Paragraph and the losses that would have been borne by those liabilities are not fully transferred to other creditors, a resolution financing arrangement may make a contribution to the institution under resolution to take one or both of the following measures:

1) cover all losses which have not been absorbed by bail-inable liabilities and restore the net asset value of the institution under resolution to zero in accordance with Section 67, Paragraph one, Clause 1 of this Law;

2) purchase shares or other instruments of ownership or capital instruments in the institution under resolution in order to recapitalise the institution in accordance with Section 67, Paragraph one, Clause 2 of this Law.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 56.** (1) The contribution referred to in Section 55, Paragraph three of this Law may be made from the resolution fund in conformity with the following conditions:

1) the shareholders and the persons who own other instruments of ownership, the holders of relevant capital instruments and other bail-inable liabilities have ensured, through write-down, conversion, or another method, coverage of losses and recapitalisation equal to an amount that is not less than 8 per cent of the total liabilities (including own funds) of the institution under resolution which have been measured during the resolution action in accordance with the valuation provided for in Sections 45, 46, and 47 of this Law;

2) the contribution to the resolution fund does not exceed 5 per cent of the total liabilities (including own funds) of the institution under resolution which have been measured during the resolution action in accordance with the valuation provided for in Sections 45, 46, and 47 of this Law.

(2) The contribution to the resolution fund referred to in Section 55, Paragraph three of this Law may be financed by:

1) the amount available to the resolution financing arrangement which has been raised through contributions by institutions and by branches registered in the Republic of Latvia of the institutions registered abroad;

2) the amount that can be raised through additional contributions in conformity with that laid down in Article 71 of Regulation No 806/2014 within three years;

3) the amounts raised from alternative financing sources if the amounts referred to in Clauses 1 and 2 of this Paragraph are insufficient.

[*16 February 2017; 30 September 2021*]

**Section 57.** (1) In extraordinary circumstances, the Financial and Capital Market Commission is entitled to receive additional financing from alternative financing sources in conformity with the following conditions:

1) the 5 per cent limit specified in Section 56, Paragraph one, Clause 2 of this Law has been conformed with;

2) all unsecured, non-preferred liabilities and other than eligible deposits within the meaning of the Deposit Guarantee Law have been written down or converted in full.

(2) If the conditions provided for in Paragraph one of this Section have been complied with, the resolution fund may make a contribution from resources which have been raised through contributions made in the resolution fund and which have not yet been used.

(3) Without complying with the conditions of Section 56, Paragraph one, Clause 1 of this Law, the resolution fund may make the contribution referred to in Section 55, Paragraph three of this Law provided that the following conditions are met:

1) the contribution to loss absorption and recapitalisation referred to in Section 56, Paragraph one, Clause 1 of this Law is equal to an amount not less than 20 per cent of the risk weighted assets of the institution under resolution;

2) it has at its disposal the amount which consists of contributions made in the resolution fund and which is at least equal to 3 per cent of covered deposits of all the credit institutions registered in the Republic of Latvia;

3) the institution under resolution has assets below EUR 900 billion on a consolidated basis.

[*16 February 2017; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 58.** (1) When exercising the rights specified in Section 54, Paragraph four and Section 55, Paragraph one of this Law, the Financial and Capital Market Commission shall give due consideration to:

1) the principle that losses should be borne first by shareholders or persons who own other instruments of ownership and next by creditors of the institution under resolution in order of preference;

2) the level of loss absorbing capacity which would remain in the institution under resolution if the liability or class of liabilities were excluded;

3) the need to maintain adequate resources for resolution financing.

(2) Exclusions in accordance with the requirements of Section 54, Paragraph four and Section 55, Paragraph one of this Law may be applied either to completely exclude a liability from write-down or to limit the extent of the write-down applied to the abovementioned liability.

(3) Prior to taking the decision on exercising the rights specified in Section 54, Paragraph four and Section 55, Paragraph one of this Law, the Financial and Capital Market Commission shall inform the European Commission thereof. If the implementation of the rights specified in Section 54, Paragraph four and Section 55, Paragraph one of this Law requires to use resources of the resolution fund or another alternative financing source, the Financial and Capital Market Commission needs to receive a coordination of the European Commission before taking of such decision.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 58.1** (1) A seller of the eligible liabilities that meet all the conditions referred to in Section 72a of Regulation No 575/2013 (except for the conditions in respect of Articles 72a(1) and 72b(3), (4), and (5) of the respective Regulation), such liabilities shall be sold to a retail client only when all of the following conditions are met:

1) the seller has carried out a suitability test in accordance with Section 126.2 of the Financial Instrument Market Law;

2) on the basis of the test referred to in Clause 1 of this Paragraph, the seller has ascertained that such eligible liabilities are suitable for the relevant retail client;

3) the seller documents the suitability in accordance with Section 128, Paragraphs eleven, 11.1, and 11.2 of the Financial Instrument Market Law.

(2) If the conditions referred to in Paragraph one of this Section are met and the financial portfolio of the relevant retail client does not exceed EUR 500 000 at the moment of purchase, the seller shall, on the basis of the information provided by the client in accordance with Paragraph three of this Section, ensure that both of the following conditions are met at the moment of acquisition:

1) the retail client does not invest the total amount which exceeds 10 per cent of the liabilities of the portfolio of financial instruments referred to in Paragraph one of this Section;

2) the amount of the initial investments made in one or several liabilities instruments referred to in Paragraph one of this Section is at least EUR 10 000.

(3) The retail client shall provide truthful information to the seller on its portfolio of financial instruments, including any such investments in liabilities which have been referred to in Paragraph one of this Section.

(4) The portfolio of financial instruments of the retail client that corresponds to the provisions of Paragraphs two and three of this Section shall contain cash deposits and financial instruments but shall not include any financial instruments that can be used as security.

(5) Institutions or financial companies registered in the Republic of Latvia to which the requirement referred to in Section 60.2 of this Law applies and the total value of assets of which does not exceed EUR 50 billion shall only comply with the provision referred to in Paragraph two, Clause 2 of this Law.

[*30 September 2021*]

**Section 59.** (1) Institutions and financial companies shall constantly ensure compliance with the minimum requirement for own funds and eligible liabilities in accordance with Sections 59.1, 60, 60.1, 60.2, 61, 62, 63, 63.1, 63.2, 63.3, 64, and 65 of this Law.

(2) The minimum requirement for own funds and eligible liabilities shall be calculated in accordance with Section 60 of this Law as an amount of own funds and eligible liabilities and expressed as a percentage of the following:

1) the total exposure value of the institution and financial company that is calculated in accordance with Article 92(3) of Regulation No 575/2013;

2) the total exposure value measurement of the institution and financial company that is calculated in accordance with Articles 429 and 429a of Regulation No 575/2013.

(3) The Financial and Capital Market Commission shall release mortgage credit institutions, which are financed from covered bonds and are not allowed to accept deposits in accordance with the laws and regulations of the Republic of Latvia, from the minimum requirement for own funds and eligible liabilities if the following conditions are met:

1) the institutions will be wound up in accordance with the procedures laid down in the Credit Institution Law or the Financial Instrument Market Law, or Section 48, 50, or 52 of this Law;

2) compliance with the condition referred to in Clause 1 of this Paragraph ensures that creditors of the institutions, including holders of covered bonds, cover losses to the extent which corresponds to the resolution objectives.

(4) The mortgage credit institutions that are released from the minimum requirement for own funds and eligible liabilities shall not be covered by the consolidation referred to in Section 60.2, Paragraph one of this Law.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 59.1** (1) Liabilities shall only be included in the amount of own funds and eligible liabilities of resolution entities if such liabilities conform to Articles 72a, 72b (except for paragraph 2(d)), and 72c of Regulation No 575/2013.

(2) If the requirements of Article 92a or 92b of Regulation No 575/2013 are referred to in this Law, the eligible liabilities within the meaning of the respective Articles of the Regulation mean eligible liabilities as specified in Article 72k and Part Two, Title I, Chapter 5a of the Regulation.

(3) Liabilities arising from debt instruments with embedded derivatives (such as structured promissory notes) which meet the conditions referred to in Paragraph one of this Section (except for Article 72a(2)(l) of Regulation No 575/2013) shall only be included in the amount of own funds and eligible liabilities if one of the following conditions is met:

1) the principal amount of the liabilities arising from a debt instrument is fixed at the moment of issue, it is fixed or increasing, and it is not affected by a feature of an embedded derivative, and the total amount of liabilities arising from the debt instrument (including the embedded derivative) may be valued daily 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 No 575/2013;

2) the debt instrument includes a contract provision which specifies that the value of the claim is fixed or increasing in the event of insolvency of the issuer and in the event of resolution of the issuer and does not exceed the amount of the initially paid liabilities.

(4) A netting contract shall not apply to the debt instruments referred to in Paragraph three of this Section (including the embedded derivatives thereof), and Section 70, Paragraph three of this Law shall not be applicable to the valuation of such instruments.

(5) The liabilities referred to in Paragraph three of this Section shall only be included in the amount of own funds and eligible liabilities in respect of that part of the liabilities which corresponds to the principal amount referred to in Paragraph three, Clause 1 of this Section or the fixed or increasing amount referred to in Paragraph three, Clause 2 of this Section.

(6) If a subsidiary which performs commercial activity in the European Union issues liabilities to one of the current shareholders that is not part of the same resolution group and if the respective subsidiary is part of the same resolution group as a resolution entity, the respective liabilities shall be included in the amount of own funds and eligible liabilities of the respective resolution entity provided that all of the following conditions are met:

1) the abovementioned liabilities are issued in accordance with Section 61, Paragraph six, Clause 1of this Law;

2) implementation of the write-down or conversion power in respect of the abovementioned liabilities in accordance with Sections 77, 78, 79, and 80 of this Law does not affect control of the resolution entity over the subsidiary;

3) the abovementioned liabilities do not exceed the amount which is determined from the amount required in accordance with Section 61, Paragraphs one, two, three, four, and five of this Law by deducting the amount of liabilities which is issued to the resolution entity and which this resolution entity has purchased directly or indirectly through other entities of the same resolution group, and the amount of own funds which is issued in accordance with Section 61, Paragraph six, Clause 2 of this Law.

(7) Without prejudice to the minimum requirement referred to in Section 60, Paragraphs fourteen, fifteen or Section 60.1, Paragraph one, Clause 1 of this Law, the Financial and Capital Market Commission shall ensure that resolution entities, which are global systemically important institutions or to which Section 60, Paragraph fourteen, fifteen, or sixteen of this Law applies, enforce a part of the requirement referred to in Section 60.2 of this Law that is 8 per cent of the total liabilities (including own funds) by using the own funds, subordinated eligible instruments, or liabilities referred to in Paragraph six of this Section.

(8) The Financial and Capital Market Commission may allow the resolution entities, which are global systemically important institutions or to which Section 60, Paragraph fourteen, fifteen, or sixteen of this Law applies, to enforce the level of parts of the requirement referred to in Section 60.2 of this Law that is lower than 8 per cent of the total liabilities (including own funds) but higher than the amount resulting from application of the formula “(1 – (X1 / X2)) × 8 per cent of the total liabilities (including own funds)” by using the own funds, subordinated eligible instruments, or liabilities referred to in Paragraph six of this Section provided that all of the conditions referred to in Article 72b(3) of Regulation No 575/2013 are met and the following possible reduction threshold is followed:

1) X1 is 3.5 per cent of the total exposure value that is calculated in accordance with Article 92(3) of Regulation No 575/2013;

2) X2 is an amount which consists of 18 per cent of the total exposure value that is calculated in accordance with Article 92(3) of Regulation No 575/2013 and amount of the combined capital buffer requirement.

(9) If application of Paragraphs seven and eight of this Section to the resolution entities to which Section 60, Paragraphs fourteen and fifteen of this Law apply has resulted in a requirement exceeding 27 per cent of the total exposure value that is calculated in accordance with Article 92(3) of Regulation No 575/2013, a part of the requirement referred to in Section 60.2 of this Law which is to be enforced by using the own funds, subordinated eligible instruments, or liabilities referred to in Paragraph six of this Section shall be limited by the Financial and Capital Market Commission in respect of the relevant resolution entity to the amount which is equal to 27 per cent of the total exposure value if it has assessed that the following conditions apply:

1) access to the resolution financing arrangement is not considered in the resolution plan to be a possibility to resolve the relevant entity;

2) if Paragraph nine, Clause 1 of this Section is not applicable, the requirement referred to in Section 60.2 of this Law allows the respective resolution entity to fulfil the requirements referred to in Section 56, Paragraph one or Section 57, Paragraph three of this Law respectively.

(10) In carrying out the assessment referred to in Paragraph nine of this Section, the Financial and Capital Market Commission shall take into account a risk of a potential disproportionate effect on the business model of the relevant resolution entity.

(11) Paragraph nine of this Section shall not be applicable to the resolution entities to which Section 60, Paragraph sixteen of this Law applies.

(12) In respect of the resolution entities which are not global systemically important institutions or to which Section 60, Paragraph fourteen, fifteen, or sixteen of this Law does not apply, the Financial and Capital Market Commission may decide that the part of the requirement referred to in Section 60.2 of this Law either up to 8 per cent of the total liabilities (including own funds) of the entity or up to the amount in accordance with the formula specified in Paragraph sixteen of this Law, whichever is the greater, is to be enforced by using the own funds, subordinated eligible instruments, or liabilities referred to in Paragraph six of this Section provided that the following conditions are met:

1) the non-subordinated liabilities referred to in Paragraphs one, two, three, four, and five of this Section have the same priority of the satisfaction of claims of creditors in insolvency proceedings as specific liabilities which have been excluded from the application of write-down and conversion powers in accordance with Section 54, Paragraph one or four of this Law;

2) there is a risk that due to planned application of write-down and conversion powers to non-subordinated liabilities which have not been excluded from the application of write-down and conversion powers in accordance with Section 54, Paragraph one or four of this Law, the creditors whose claims are arising from the respective liabilities incur greater losses than if the winding-up was performed in accordance with insolvency proceedings;

3) the amount of own funds and other subordinated liabilities does not exceed the amount which is necessary to ensure that the creditors referred to in Clause 2 of this Paragraph do not incur losses which exceed the level of losses that they would have incurred otherwise if the winding-up was performed in accordance with insolvency proceedings.

(13) If the Financial and Capital Market Commission establishes that in the class of liabilities containing eligible liabilities the total amount of the liabilities which have been excluded or are likely to be excluded from the application of write-down and conversion powers in accordance with Section 54, Paragraph one or four of this Law, exceeds 10 per cent of the respective class, the Financial and Capital Market Commission shall assess the risk referred to in Paragraph five, Clause 2 of this Law.

(14) For the purpose of application of Paragraphs seven, eight, nine, ten, eleven, twelve, thirteen, and sixteen of this Section, liabilities of derivatives shall be included in the total liabilities on the basis of the fact that rights of set-off of a counterparty are fully recognised.

(15) Own funds of a resolution entity that are used to fulfil the combined buffer requirement shall be eligible to fulfil the requirement referred to in Paragraphs seven, eight, nine, ten, eleven, twelve, thirteen, and sixteen of this Section.

(16) By way of derogation from Paragraphs seven, eight, nine, ten, and eleven of this Section, the Financial and Capital Market Commission may decide that the resolution entities, which are global systemically important institutions or to which Section 60, Paragraph fourteen, fifteen, or sixteen of this Law applies, fulfil the requirement referred to in Section 60.2 of this Law by using the own funds, subordinated eligible instruments, or liabilities referred to in Paragraph six of this Section insofar as (to the extent that), in the context of the obligation of the resolution entity to conform to the combined buffer requirement and the requirements referred to in Article 92a of Regulation No 575/2013 and Section 60, Paragraphs fourteen and fifteen and Section 60.2 of this Law, the amount of own funds, instruments, and liabilities does not exceed the greater of the following amounts:

1) 8 per cent of the total liabilities of the entity (including own funds);

2) the amount resulting from the use of the following formula:

A × 2 + B × 2 + C where

A – the amount resulting from the requirements of Article 92(1)(c) of Regulation No 575/2013 or the amount resulting from the requirements of Article 11(1) of Regulation No 2019/2033 in relation to the institution – investment firm – referred to in Section 2, Paragraph two, Clause 1 and the investment firm referred to in Clause 2 of this Law other than the investment firm specified in Article 1(2) or (5) of Regulation No 2019/2033;

B – the amount resulting from the requirements of Section 101.16 of the Credit Institution Law or the amount resulting from the requirements of Section 54 of the Law on Investment Firms in relation to the institution – investment firm – referred to in Section 2, Paragraph two, Clause 1 and the investment firm referred to in Clause 2 of this Law other than the investment firm specified in Article 1(2) or (5) of Regulation No 2019/2033;

C – the amount resulting from the combined buffer requirement.

(17) The Financial and Capital Market Commission may exercise the rights referred to in Paragraph sixteen of this Section in respect of the resolution entities which are global systematically important institutions or to which Section 60, Paragraph fourteen, fifteen, or sixteen of this Law applies and which meet at least one of the conditions referred to in Paragraph 8.1 of this Section, up to 30 per cent of the total number of all those resolution entities which are global systematically important institutions or to which Section 60, Paragraph fourteen, fifteen, or sixteen of this Law applies and in respect of which the Financial and Capital Market Commission lays down the minimum requirement for own funds and eligible liabilities in accordance with Section 60.2 of this Law.

(18) In carrying out the activities referred to in Paragraph seventeen of this Section, the Financial and Capital Market Commission shall take into account the following conditions:

1) substantive impediments to resolvability have been identified in the resolvability assessment made previously and either no corrective measurements have been taken in the timetable specified by the Financial and Capital Market Commission after application of the measures referred to in Section 20, Paragraph eight of this Law or the substantive impediment identified cannot be addressed under any of the measures referred to in Section 20, Paragraph eight of this Law, and the exercise of the rights referred to in Paragraph sixteen of this Section would partly or fully compensate for the negative impact of substantive impediments on resolvability;

2) the probability and credibility of the preferred resolution strategy of the resolution entity are limited taking into account the size and inter-relationship of the entity, the nature of its activities, the size, risks, and complexity, its legal status and structure of the block of shares;

3) the requirement referred to in Section 101.16 of the Credit Institution Law reflects the fact that the resolution entity which is a global systematically important institution or to which Section 60, Paragraph fourteen, fifteen, or sixteen of this Law applies ranks, in terms of riskiness, among 20 per cent of the most riskiest institutions in respect of which the Financial and Capital Market Commission lays down the minimum requirement for own funds and eligible liabilities referred to in Section 59, Paragraph one of this Law.

(19) For the purpose of application of the percentage referred to in Paragraphs seventeen and eighteen of this Section, the Financial and Capital Market Commission shall round the number obtained as a result of calculation to the nearest whole number.

(20) The Financial and Capital Market Commission shall lay down the minimum requirement for own funds and eligible liabilities in accordance with Paragraph twelve or sixteen of this Section by taking into account at least the following criteria:

1) the depth of the market which the own funds instruments and subordinated eligible instruments of the resolution entity have, the pricing and time of such instruments (if any) that are required to make any transactions necessary for the execution of the respective decision;

2) the amount of eligible liabilities instruments which conform to all the conditions referred to in Article 72a of Regulation No 575/2013 with a residual maturity shorter than one year from the day on which a decision is taken to make quantitative corrections to the requirements referred to in Paragraphs twelve and sixteen of this Section;

3) the availability and amount of the instruments which conform to all the conditions referred to in Article 72a of Regulation No 575/2013, except for Article 72b(2)(d) of the respective Regulation;

4) whether, in comparison with the own funds and eligible liabilities of the resolution entity, the amount of the liabilities, which are excluded from the application of the write-down and conversion powers in accordance with Section 54, Paragraphs one and four of this Law and rank in the insolvency proceedings together with the highest ranked eligible liabilities or after them, is significant. If the amount of the excluded liabilities does not exceed 5 per cent of the amount of own funds and eligible liabilities of the resolution entity, it shall be considered that the excluded amount is not significant. If the amount exceeds the respective threshold, the Financial and Capital Market Commission shall assess significance of the excluded liabilities;

5) the business model, the funding model, and the risk profile of the resolution entity, and also its stability and ability to contribute to the economy;

6) the possible impact of restructuring costs on recapitalisation of the resolution entity.

[*30 September 2021; 28 April 2022* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraphs 4 and 13 of Transitional Provisions*]

**Section 60.** (1) The Financial and Capital Market Commission shall lay down the minimum requirement for own funds and eligible liabilities in accordance with Section 59, Paragraph one of this Law by taking into account at least the following criteria:

1) the need to ensure that the resolution group can be resolved by applying resolution tools to the resolution entity, including the bail-in tool, so that the resolution objectives are achieved;

2) the need to ensure that the resolution entity and its subsidiaries that are institutions or financial companies but not resolution entities have sufficient own funds and eligible liabilities to guarantee that, in the case of application of the in-bail tool or write-down and conversion powers, it would be possible to cover losses and restore the total capital ratio and, where applicable, the leverage indicator of the relevant entities at the level which is necessary for them to preserve their conformity with the conditions for obtaining a licence (authorisation) in accordance with the requirements laid down in the Credit Institution Law, the Law on Investment Firms, or the Law on Investment Management Companies;

3) the need to ensure that, if the resolution plan envisages that certain classes of eligible liabilities might be excluded from bail-in in accordance with Section 54, Paragraph four of this Law or that certain classes of eligible liabilities can be transferred to a recipient in full under a partial transfer, the resolution entity has sufficient own funds and other eligible liabilities in order to provide a possibility to cover such losses and it would be possible to restore its total capital ratio and, where applicable, the leverage indicator at the level which is necessary for the institution and financial company to preserve their conformity with the conditions for obtaining a licence (authorisation) in accordance with the requirements laid down in the Credit Institution Law, the Law on Investment Firms, or the Law on Investment Management Companies;

4) the size, the business model, the funding model, and the risk profile of the institution or financial company;

5) the extent to which insolvency of the institution or financial company would have adverse effects on financial stability, including another inter-related institution or the rest of the financial system.

(2) If the resolution plan envisages that the resolution action is to be taken or the power to write down or convert the relevant capital instruments and eligible liabilities is to be implemented in accordance with Section 77 of this Law according to the relevant variant referred to in Section 11, Paragraph two of this Law, the minimum requirement for own funds and eligible liabilities shall be equal to the amount which is sufficient to ensure that:

1) losses the entity might incur are fully absorbed (loss absorption);

2) the resolution entities and subsidiaries that are institutions or financial companies but not resolution entities are recapitalised to the extent necessary for them to preserve their ability to meet the conditions for obtaining the licence (authorisation) and to continue activities for which they have obtained the licence (authorisation) in accordance with the Credit Institution Law, the Law on Investment Firms, or the Law on Investment Management Companies, or an equivalent legal act for a proper period not exceeding one year (recapitalisation).

(3) If the resolution plan envisages winding-up of an institution or financial company in accordance with the procedures laid down in the Credit Institution Law or the Law on Investment Firms, the Financial and Capital Market Commission shall assess whether it is justified to limit the minimum requirement for own funds and eligible liabilities in respect of the respective entity so that it does not exceed the amount which is sufficient to absorb losses in accordance with Paragraph two, Clause 1 of this Section.

(4) The assessment of the Financial and Capital Market Commission shall in particular assess the restriction referred to in Paragraph three of this Section in respect of the potential impact on the financial stability and the risk to cause negative impact on the financial system.

(5) In respect of the resolution entities the amount referred to in Paragraph two of this Section shall be as follows:

1) in calculating the minimum requirement for own funds and eligible liabilities in accordance with Section 59, Paragraph two, Clause 1 of this Law – an amount consisting of the following amounts:

a) the amount of the losses to be absorbed in resolution which conforms to the requirements laid down in Article 92(1)(c) of Regulation No 575/2013 and Section 101.16 of the Credit Institution Law in respect of the resolution entity at the consolidated resolution group level;

b) the recapitalisation amount which allows the resolution group resulting from resolution to restore conformity to its requirement for a total capital ratio referred to in Article 92(1)(c) of Regulation No 575/2013 and its requirement laid down in Section 101.16 of the Credit Institution Law at the consolidated resolution group level after implementation of the preferred resolution strategy;

11) in calculating the minimum requirement for own funds and eligible liabilities for the institution – investment firm – referred to in Section 2, Paragraph two, Clause 1 and the investment firm referred to in Clause 2 of this Law other than the investment firm specified in Article 1(2) or (5) of Regulation No 2019/2033, in accordance with Section 59, Paragraph two, Clause 1 of this Law – the amount of the losses to be absorbed in resolution which conforms to the requirements of Article 11(1) of Regulation No 2019/2033 and Section 54 of the Law on Investment Firms;

2) in calculating the minimum requirement for own funds and eligible liabilities in accordance with Section 59, Paragraph two, Clause 2 of this Law – an amount consisting of the following amounts:

a) the amount of the losses to be absorbed in resolution which conforms to the leverage ratio requirement of the resolution entity laid down in Article 92(1)(d) of Regulation No 575/2013 at the consolidated resolution group level;

b) the recapitalisation amount which allows the resolution group resulting from resolution to restore conformity to the leverage ratio requirement referred to in Article 92(1)(d) of Regulation No 575/2013 at the consolidated resolution group level after implementation of the preferred resolution strategy.

(6) For the purpose of the calculation referred to in Section 59, Paragraph two, Clause 1 of this Law, the minimum requirement for own funds and eligible liabilities shall be expressed in per cent as an amount calculated in accordance with Paragraph five, Clause 1 of this Section and divided by the total exposure value.

(7) For the purpose of the calculation referred to in Section 59, Paragraph two, Clause 2 of this Law, the minimum requirement for own funds and eligible liabilities shall be expressed in per cent as an amount calculated in accordance with Paragraph five, Clause 2 of this Section and divided by the total exposure value measurement.

(8) In determining the individual minimum requirement for own funds and eligible liabilities referred to in Paragraph five, Clause 2 of this Section, the Financial and Capital Market Commission shall take into account the requirements laid down in Section 56, Paragraph one, Section 57, Paragraph three, and Section 81, Paragraph one, Clause 1 of this Law.

(9) In determining the recapitalisation amounts referred to in Paragraph five of this Section, the Financial and Capital Market Commission shall:

1) use the most recent reported values for the relevant total exposure value or total exposure measure adjusted in line with any changes resulting from resolution actions envisaged in the resolution plan;

2) adjust downstream or upstream the amount which conforms to the current requirement laid down in Section 101.16 of the Credit Institution Law in order to lay down a requirement applicable to the resolution entity after implementation of the preferred resolution strategy.

(10) The Financial and Capital Market Commission may increase the recapitalisation requirement referred to in Paragraph five, Clause 1, Sub-clause “b” of this Section by an eligible amount which is necessary to ensure that after resolution the entity is able to preserve sufficient market confidence for a reasonable period which does not exceed one year.

(11) If the Financial and Capital Market Commission applies Paragraph ten of this Section, the amount referred to in the relevant Paragraph shall be determined as equivalent to the combined buffer requirement which is to be applied after application of the resolution tools by deducting the amount provided for in Section 35.4 of the Credit Institution Law.

(12) The Financial and Capital Market Commission shall adjust downstream the amount determined in Paragraph ten of this Section if it concludes that it would be likely and possible that a smaller amount is sufficient to preserve market confidence and ensure both continuation of the performance of critical functions of institutions or financial companies and access of the entity to the financing without using any exceptional financial support from the public sector funds other than contributions from the resolution financing arrangement in accordance with Section 56, Paragraph one or Section 57, Paragraph three of this Law, Article 76(3) of Regulation No 806/2014, and Section 121.1, Paragraph four of this Law after implementation of the resolution strategy.

(13) The Financial and Capital Market Commission shall adjust upstream the amount determined in Paragraph ten of this Section if it concludes that a higher amount is necessary to preserve sufficient market confidence and ensure both continuation of the performance of critical functions of institutions or financial companies and access of the entity to the financing without using any exceptional financial support from the public sector funds other than contributions from the resolution financing arrangement in accordance with Section 56, Paragraph one or Section 57, Paragraph three of this Law, Article 76(3) of Regulation No 806/2014, and Section 121.1, Paragraph four of this Law within a reasonable period which does not exceed one year.

(14) In respect of the resolution entities to which Article 92a of Regulation No 575/2013 does not apply and which are part of the resolution group the total assets of which exceed EUR 100 billion, the level of the minimum requirement for own funds and eligible liabilities referred to in Paragraph five of this Section shall be at least equal to the following:

1) 13.5 per cent if it is calculated in accordance with Section 59, Paragraph two, Clause 1of this Law;

2) 5 per cent if it is calculated in accordance with Section 59, Paragraph two, Clause 2 of this Law.

(15) By way of derogation from Section 59.1 of this Law, the resolution entities referred to in Paragraph fourteen of this Section shall ensure conformity to the level of the requirement referred to in Paragraph fourteen of this Section which is equal to 13.5 per cent if it is calculated in accordance with Section 59, Paragraph two, Clause 1 of this Law, and 5 per cent if it is calculated in accordance with Section 59, Paragraph two, Clause 2 of this Law by the using own funds, subordinated eligible instruments, or liabilities referred to in Section 59.1, Paragraph eighteen of this Law.

(16) The Financial and Capital Market Commission may take the decision to apply the minimum requirements for own funds and eligible liabilities referred to in Paragraphs fourteen and fifteen of this Section to the resolution entity to which Article 92a of Regulation No 575/2013 does not apply and which is part of the resolution group the total assets of which are smaller than EUR 100 billion if it has assessed the resolution entity as such which is likely to pose a systemic risk in the event of insolvency by taking into account the following criteria:

1) the prevalence of deposits and absence of debt instruments in the funding model;

2) the access to capital markets for financing eligible liabilities;

3) the amount in which the resolution entity depends on the Common Equity Tier 1 to fulfil the requirement referred to in Section 60.2 of this Law.

(17) The fact that a decision has not been taken in accordance with Paragraph sixteen of this Section is without prejudice to any decision taken by the Financial and Capital Market Commission in accordance with Section 59.1, Paragraph twelve of this Law.

(18) In respect of the institutions and financial companies that are not resolution entities themselves, the amount referred to in Paragraph two of this Section shall be as follows:

1) in calculating the minimum requirement for own funds and eligible liabilities referred to in Section 59, Paragraph one of this Law in accordance with Section 59, Paragraph two, Clause 1 of this Law – an amount consisting of the following amounts:

a) the amount of the losses to be absorbed which conforms to the requirements laid down in Article 92(1)(c) of Regulation No 575/2013 and Section 101.16 of the Credit Institution Law in respect of the entity;

b) the recapitalisation amount which allows the entity to restore conformity to its requirement for a total capital ratio referred to in Article 92(1)(c) of Regulation No 575/2013 and its requirement laid down in Section 101.16 of the Credit Institution Law after the power to write down or convert the relevant capital instruments and eligible liabilities has been implemented in accordance with Section 77 of this Law or after resolution of the resolution group;

11) in calculating the minimum requirement for own funds and eligible liabilities referred to in Section 59, Paragraph one of this Law for the institution – investment firm – referred to in Section 2, Paragraph two, Clause 1 and the investment firm referred to in Clause 2 of this Law other than the investment firm specified in Article 1(2) or (5) of Regulation No 2019/2033, in accordance with Section 59, Paragraph two, Clause 1 of this Law – the amount of the losses to be absorbed in resolution which conforms to the requirements of Article 11(1) of Regulation No 2019/2033 and Section 54 of the Law on Investment Firms;

2) in calculating the requirement referred to in Section 59, Paragraph one of this Law in accordance with Section 59, Paragraph two, Clause 2 of this Law – an amount consisting of the following amounts:

a) the amount of the losses to be absorbed which conforms to the leverage ratio requirement of the entity laid down in Article 92(1)(d) of Regulation No 575/2013;

b) the recapitalisation amount which allows the entity to restore conformity to its leverage ratio requirement referred to in Article 92(1)(d) of Regulation No 575/2013 after the power to write down or convert the relevant capital instruments and eligible liabilities has been implemented in accordance with Section 77 of this Law or after resolution of the resolution group.

(19) For the purpose of the calculation referred to in Section 59, Paragraph two, Clause 1 of this Law, the minimum requirement for own funds and eligible liabilities referred to in Section 59, Paragraph one of this Law shall be expressed as a percentage, as an amount calculated in accordance with Paragraph eighteen, Clause 1 of this Section and divided by the total exposure value.

(20) For the purpose of the calculation referred to in Section 59, Paragraph two, Clause 2 of this Law, the minimum requirement for own funds and eligible liabilities referred to in Section 59, Paragraph one of this Law shall be expressed as a percentage, as an amount calculated in accordance with Paragraph eighteen, Clause 2 of this Section and divided by the measure of the total exposure value.

(21) In determining the individual minimum requirement for own funds and eligible liabilities referred to in Paragraph eighteen, Clause 2 of this Section, the Financial and Capital Market Commission shall take into account the requirements laid down in Section 81, Paragraph one, Clause 1 of this Law and Section 56, Paragraph one or Section 57, Paragraph three of this Law.

(22) In determining the recapitalisation amount referred to in Paragraph twenty-one of this Section, the Financial and Capital Market Commission shall:

1) use the on-going values for the relevant total exposure value or total exposure measure adjusted in line with any changes resulting from actions envisaged in the resolution plan;

2) after consulting the resolution authority adjust downstream or upstream the amount which conforms to the current requirement laid down in Section 101.16 of the Credit Institution Law in order to lay down a requirement applicable to the relevant resolution entity after implementation of the power to write down or convert the relevant capital instruments and eligible liabilities in accordance with Section 77 of this Law or after resolution of the resolution group.

(23) The Financial and Capital Market Commission may increase the requirement for recapitalisation amount laid down in Paragraph eighteen, Clause 1, Sub-clause “b” of this Section by an adequate amount which is necessary to ensure that after implementation of the power to write down or convert the relevant capital instruments and eligible liabilities in accordance with Section 77 of this Law, the entity is able to preserve sufficient market confidence for a reasonable period which does not exceed one year.

(24) In applying Paragraph twenty-three of this Section, the Financial and Capital Market Commission shall determine the intended increase of the recapitalisation amount as equivalent to the combined buffer requirement which is to be applied after implementation of the power referred to in Section 77 of this Law or resolution of the resolution group by deducting the amount referred to in Section 35.4 of the Credit Institution Law.

(25) The Financial and Capital Market Commission shall adjust downstream the amount referred to in Paragraph twenty-three of this Section if it concludes that it would be likely and possible that a smaller amount is sufficient to preserve market confidence and ensure both continuation of the performance of critical economic functions of institutions or financial companies and access of the entity to the financing without using any exceptional financial support from the public sector funds other than contributions from the resolution financing arrangement in accordance with Section 56, Paragraph one or Section 57, Paragraph three of this Law, Article 76(3) of Regulation No 806/2014, and Section 121.1, Paragraph four of this Law after implementation of the power referred to in Section 77 of this Law or after resolution of the resolution group.

(26) The Financial and Capital Market Commission shall adjust upstream the amount referred to in Paragraph twenty-three of this Section if it concludes that a higher amount is necessary to preserve sufficient market confidence and ensure both continuation of the performance of critical functions of institutions or financial companies and access of the entity to the financing without using any exceptional financial support from the public sector funds other than contributions from the resolution financing arrangement in accordance with Section 56, Paragraph one or Section 57, Paragraph three of this Law, Article 76(3) of Regulation No 806/2014, and Section 121.1, Paragraph four of this Law within a reasonable period which does not exceed one year.

(27) If the Financial and Capital Market Commission expects that certain classes of eligible liabilities are likely to be fully or partly excluded from bail-in in accordance with Section 55, Paragraph two of this Law or could be fully transferred to a recipient under a partial transfer, it shall determine the fulfilment of the minimum requirement for own funds and eligible liabilities referred to in Section 59, Paragraph one of this Law by using own funds or other eligible liabilities which are sufficient to:

1) cover the amount of the excluded liabilities determined in accordance with Section 55, Paragraph two of this Law;

2) ensure that the conditions referred to in Paragraph two of this Section are met.

(28) Any decision of the Financial and Capital Market Commission to apply the minimum requirement for own funds and eligible liabilities in accordance with this Section shall include a justification of the respective decision, including a full assessment of the elements referred to in Paragraphs two to twenty-seven of this Section, and the resolution authority shall immediately review it to reflect any changes in the level of the requirement referred to in Section 101.16 of the Credit Institution Law.

(29) In the cases of application of Paragraphs five and eighteen of this Section, the Financial and Capital Market Commission shall interpret the capital requirements in accordance with the applied Transitional Provisions provided for in Part Ten, Title I, Chapters 1, 2, and 4 of Regulation No 575/2013 and laws and regulations under which the opportunities, which have been allocated to the Financial and Capital Market Commission in accordance with the respective Regulation, are pursued.

[*30 September 2021; 28 April 2022* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraphs 4 and 13 of Transitional Provisions*]

**Section 60.1** (1) The minimum requirement for own funds and eligible liabilities referred to in Section 59, Paragraph one of this Law and imposed on the resolution entity which is a global systemically important institution or part of a global systematically important institution shall consist of the following:

1) the requirements referred to in Articles 92a and 494 of Regulation No 575/2013;

2) any additional requirement for own funds and eligible liabilities which the Financial and Capital Market Commission has imposed specifically on the respective global systematically important institution in accordance with Paragraph three of this Section.

(2) The minimum requirement for own funds and eligible liabilities referred to in Section 59, Paragraph one of this Law in respect of an important European Union subsidiary of a global systematically important institution outside the European Union shall include the following:

1) the requirements referred to in Articles 92b and 494 of Regulation No 575/2013;

2) any additional requirement for own funds and eligible liabilities which the Financial and Capital Market Commission has imposed specifically on the respective important European Union subsidiary of a global systematically important institution outside the European Union in accordance with Paragraph three of this Section and which is to be fulfilled by using own funds and liabilities that meet the conditions referred to in Section 61 and Section 108, Paragraph two of this Law.

(3) The Financial and Capital Market Commission shall only apply the additional requirement referred to in Paragraph one, Clause 2 and Paragraph two, Clause 2 of this Section to own funds and eligible liabilities if the requirement referred to in Paragraph one, Clause 1 or Paragraph two, Clause 1 of this Section is not sufficient to meet the conditions referred to in Section 60 of this Law and only to the extent necessary to ensure that the conditions referred to in Section 60 of this Law are met.

(4) For the purpose of application of Section 63, Paragraph four of this Law, if more than one global systemically important institution which belongs to the same global systemically important institution is a resolution entity, the relevant resolution authorities shall calculate the amount referred to in Paragraph three of this Section for the following:

1) each resolution entity;

2) a European Union parent company as if it was the only resolution entity of the global systemically important institution.

(5) Any decision of the Financial and Capital Market Commission to apply an additional requirement for own funds and eligible liabilities in accordance with Paragraph one, Clause 2 or Paragraph two, Clause 2 of this Section shall include a justification of the respective decision, including a full assessment of the elements referred to in Paragraph three of this Section, and the Financial and Capital Market Commission shall immediately review it to reflect any changes in the level of the requirement referred to in Section 101.16 of the Credit Institution Law and applicable to the resolution group or important European Union subsidiary of a global systematically important institution outside the European Union.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 60.2** (1) The resolution entities shall fulfil the requirements laid down in Sections 59.1, 60, and 60.1 of this Law at the consolidated resolution group level.

(2) The minimum requirement for own funds and eligible liabilities referred to in Section 59, Paragraph one of this Law shall be laid down by the Financial and Capital Market Commission in respect of the resolution entity at the consolidated resolution group level in accordance with Sections 63, 63.1, 63.2, 63.3, and 63.4 of this Law on the basis of the requirements laid down in Sections 59.1, 60, and 60.1 of this Law and the fact whether foreign subsidiaries of the group are resolvable individually in accordance with the resolution plan.

(3) In respect of the resolution groups identified in accordance with Section 1, Clause 37.2 of this Law, the Financial and Capital Market Commission shall, taking into account the features of a solidarity mechanism and the most appropriate resolution strategy, decide which entities of the resolution group are to be conformed to Section 60, Paragraphs five and sixteen and Section 60.1, Paragraph one, Clause 1 to ensure that the whole resolution group conforms to Paragraphs one and two of this Section, and how such entities should do it in accordance with the resolution plan.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 61.** (1) Institutions that are resolution entities or subsidiaries of a foreign entity but are not resolution entities themselves shall fulfil the requirements laid down in Section 60 of this Law individually.

(2) The Financial and Capital Market Commission may decide to apply the requirement laid down in this Section to an institution or financial company that is a subsidiary of the resolution entity but is not a resolution entity itself.

(3) By way of derogation from Paragraph one of this Section, European Union parent companies that are not resolution entities themselves but are subsidiaries of foreign entities shall fulfil the requirements laid down in Sections 60 and 60.1 of this Law in a consolidated manner.

(4) In respect of the resolution groups identified in accordance with Section 1, Clause 37.2 of this Law and which are permanently affiliated to a central body but are not resolution entities themselves, the central body which is not a resolution entity itself and any resolution entities to which the requirement laid down in Section 60.2, Paragraph three of this Law does not apply shall individually fulfil the requirements laid down in Section 60, Paragraphs eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, and twenty-six of this Law.

(5) The Financial and Capital Market Commission shall lay down the minimum requirement for own funds and eligible liabilities referred to in Section 59, Paragraph one of this Law in respect of the institution or financial company referred to in Paragraphs one, two, three, and four of this Section in accordance with Sections 63, 63.1, 63.2, 63.3, and 63.4 of this Law, and, where applicable, Section 108 of this Law on the basis of the requirements laid down in Section 60 of this Law.

(6) The institutions or financial companies referred to in Paragraphs one, two, three, and four of this Section shall fulfil the minimum requirement for own funds and eligible liabilities referred to in Section 59, Paragraph one of this Law by using one or more of the following sources:

1) liabilities:

a) which are issued to the resolution entity and purchased by the resolution entity directly or indirectly through an entity of the same resolution group that has purchased liabilities from the institution or financial company to which this Section applies, or which are issued to the current shareholder that is not part of the same resolution group and which are purchased by the current shareholder, insofar as implementation of the write-down or conversion power does not affect control of the resolution entity over a subsidiary in accordance with Sections 77, 78, 79, and 80 of this Law;

b) which conform to the eligibility criteria referred to in Article 72a of Regulation No 575/2013, except for Article 72b(2)(b), (c), (k), (l), and (m) and Article 72b(3), (4), and (5) of the respective Regulation;

c) which rank after liabilities that do not meet the conditions referred to in Sub-clause “a” of this Clause and do not conform to the own funds requirements in insolvency proceedings;

d) which are subject to the write-down or conversion power in accordance with Sections 77, 78, 79, and 80 of this Law in a manner that conforms to the resolution group strategy – not affecting control of the resolution entity over a subsidiary;

e) fulfilment of which is not directly or indirectly financed by the institution or financial company to which this Section applies;

f) the regulatory provisions of which do not indicate that liabilities of the institution or financial company to which this Section applies (except for the case of insolvency or winding-up of the respective institution or financial company) are to be withdrawn, extinguished, repurchased, or repaid early respectively, and the respective entity does not provide such indication otherwise;

g) the regulatory provisions of which do not provide for a right of a holder to speed up an interest or principal amount determined in a future schedule (except for the case of insolvency or winding-up of the respective institution or financial company);

h) the level of interest or dividend payments of which to be paid respectively is not amended on the basis of creditworthiness of the entity to which this Section applies or the parent company thereof;

2) own funds in the following ways:

a) Common Equity Tier 1;

b) other own funds which are issued to entities that are part of the same resolution group and which are purchased by such entities or which are issued to entities that are not part of the same resolution group and which are purchased by such entities, insofar as implementation of the write-down or conversion power does not affect control of the resolution entity over a subsidiary in accordance with Sections 77, 78, 79, and 80 of this Law.

(7) The Financial and Capital Market Commission need not apply this Section to a subsidiary that is not a resolution entity if:

1) both the subsidiary and the resolution entity perform commercial activity in the Republic of Latvia and are part of the same resolution group;

2) the resolution entity conforms to the requirement for own funds and eligible liabilities as laid down in Section 60.2 of this Law;

3) there is no current or foreseen material practical or legal impediment to the resolution entity to make prompt transfer of own funds or repayment of liabilities to the subsidiary in respect of which findings have been made in accordance with Section 77, Paragraph three of this Law, in particular where resolution action is taken with regard to the resolution entity;

4) the resolution entity fulfils the requirements of the Financial and Capital Market Commission for prudential management of the subsidiary and has declared, with the consent of the Financial and Capital Market Commission, that it guarantees the commitments entered into by the subsidiary, or the risks in the subsidiary are of no significance;

5) the risk assessment, measurement and control procedures of the resolution entity also apply to the subsidiary;

6) the resolution entity holds more than 50 per cent of the voting rights related to capital shares of a subsidiary or the right to appoint or remove the majority of members of the management structure of the subsidiary.

(8) The Financial and Capital Market Commission need not apply this Section to a subsidiary that is not a resolution entity if:

1) both the subsidiary and its parent company perform commercial activity in the Republic of Latvia and are part of the same resolution group;

2) the parent company in the Republic of Latvia conforms in a consolidated manner to the minimum requirement for own funds and eligible liabilities referred to in Section 59, Paragraph one of this Law;

3) there is no current or foreseen material practical or legal impediment to the parent company to make prompt transfer of own funds or repayment of liabilities to the subsidiary in respect of which findings have been made in accordance with Section 77, Paragraph three of this Law, in particular where resolution action or power referred to in Section 77, Paragraph one of this Law is taken or implemented with regard to the parent company;

4) the parent company fulfils the requirements of the Financial and Capital Market Commission for prudential management of the subsidiary and has declared, with the consent of the Financial and Capital Market Commission, that it guarantees the commitments entered into by the subsidiary, or the risks in the subsidiary are of no significance;

5) the risk assessment, measurement and control procedures of the parent company apply to the subsidiary;

6) the parent company holds more than 50 per cent of the voting rights related to capital shares of a subsidiary or the right to appoint or remove the majority of members of the management structure of the subsidiary.

(9) If the conditions referred to in Paragraph seven, Clauses 1 and 2 of this Section are met, the Financial and Capital Market Commission may allow the subsidiary to fully or partly fulfil the requirement for own funds and eligible liabilities referred to in Section 59, Paragraph one of this Law under a guarantee which is provided by the resolution entity and which meets to the following conditions:

1) the guarantee is provided in the amount which is at least equivalent to the amount of the requirement replaced by the guarantee;

2) the guarantee is applied if the subsidiary is not able to pay its debts or other liabilities within the set maturity or if findings have been made in respect of the subsidiary in accordance with Section 77, Paragraph three of this Law, whichever is earlier;

3) the guarantee is collateralised in respect of at least 50 per cent of its amount by using the financial collateral arrangement specified in Section 1, Clause 2 of the Financial Collateral Law;

4) the collateral backing the guarantee conforms to the requirements of Article 197 of Regulation (EU) No 575/2013 which, following appropriately conservative haircuts, is sufficient to cover the amount secured in accordance with Clause 3 of this Paragraph;

5) the collateral backing the guarantee is unencumbered and is not used as collateral to cover any other guarantee;

6) the collateral has an effective maturity that meets the same maturity condition as the condition referred to in Article 72c(1) of Regulation (EU) No 575/2013;

7) there are no legal, regulatory, or operational barriers to the transfer of the collateral from the resolution entity to the relevant subsidiary, including in cases where resolution action is taken in respect of the resolution entity.

(10) The resolution entity shall, upon request of the Financial and Capital Market Commission, provide a justified opinion in writing or otherwise demonstrate that there are no legal, regulatory, or operational barriers to the transfer of the collateral from the resolution entity to the relevant subsidiary.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 62.** The Financial and Capital Market Commission may partly or fully exempt a central body or credit institution permanently affiliated to a central body from application of Section 61 of this Law if all of the following conditions are met:

1) the credit institutions and the central body are subject to supervision of the Financial and Capital Market Commission, perform commercial activity in the Republic of Latvia and are part of the same resolution group;

2) liabilities of the central body and credit institutions permanently affiliated thereto are joint and several or the central body fully guarantees liabilities of the credit institutions permanently affiliated thereto;

3) the minimum requirement for own funds and eligible liabilities and the minimum requirement for insolvency and liquidity of all permanently affiliated credit institutions are supervised as a whole on the basis of consolidated accounts of the respective institutions;

4) in the case of exemption of a credit institution permanently affiliated to the central body, the management of the central body is authorised to issue orders to the management of permanently affiliated credit institutions;

5) the relevant resolution group conforms to the requirement referred to in Section 60.2, Paragraph three of this Law;

6) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities between the central body and permanently affiliated credit institutions in the case of resolution.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 63.** (1) The Financial and Capital Market Commission as a resolution authority of the resolution entity registered in the Republic of Latvia, as a group-level resolution authority if it is different from the resolution authority of the resolution entity, and as a resolution authority, if it is individually responsible for the resolution group’s subsidiary registered in the Republic of Latvia to which the minimum requirement for own funds and eligible liabilities laid down in Section 61 of this Law applies, shall make all efforts in taking a joint decision as the involved resolution authority in order to take the joint decision on the following:

1) the amount of the requirement which is applied to each resolution entity of the group at the consolidated resolution group level;

2) the amount of the requirement which is applied individually to each institution of the resolution group and financial company other than the resolution entity.

(2) The Financial and Capital Market Commission as a resolution authority shall justify conformity of the joint decision to Sections 60.2 and 61 of this Law and send it to the following:

1) a resolution entity registered in the Republic of Latvia;

2) an institution of the resolution group registered in the Republic of Latvia or financial company other than the resolution entity;

3) a European Union parent company of another Member State within a group if it is not itself a resolution group’s resolution entity registered in the Republic of Latvia.

(3) The Financial and Capital Market Commission may, in accordance with this Section, envisage in the joint decision that if it conforms to the resolution strategy and if the resolution entity has not purchased directly or indirectly sufficient instruments conforming to Section 61, Paragraph six of this Law, a subsidiary shall partly fulfil the requirements referred to in Section 60, Paragraph eighteen of this Law in accordance with Section 61, Paragraph six of this Law by using instruments issued to the entities which do not belong to the relevant resolution group and are purchased by such entities.

(4) If more than one global systemically important institution which belongs to the same global systemically important institution is a resolution entity, the Financial and Capital Market Commission as one of the resolution authorities of the global systemically important institution registered in the Republic of Latvia that have been referred to in Paragraph one of this Section shall, after consulting the involved resolution authorities, agree on application of Article 72e of Regulation No 575/2013 and all adjustments the purpose of which is to reduce or remove a difference between the amount for individual resolution entities provided for in Section 60.1, Paragraph four, Clause 1 of this Law and Article 12 of Regulation No 575/2013 and the amount provided for in Section 60.1, Paragraph four, Clause 2 of this Law and Article 12 of Regulation No 575/2013 for a European Union parent company as a resolution entity of the global systemically important institution.

(5) The Financial and Capital Market Commission may apply the adjustment referred to in Paragraph four of this Section to the differences in calculation of the total exposure value between the relevant Member States by adjusting the level of the requirement.

(6) The Financial and Capital Market Commission shall not apply the adjustment referred to in Paragraph four of this Section to remove differences arising from exposures between resolution groups.

(7) In application of the adjustment referred to in Paragraph four of this Section, the Financial and Capital Market Commission shall take into account that the amount for individual resolution entities provided for in Section 60.1, Paragraph four, Clause 1 of this Law and Article 12 of Regulation No 575/2013 is not smaller than the amount provided for in Section 60.1, Paragraph four, Clause 2 of this Law and Article 12 of Regulation No 575/2013 for a European Union parent company as a resolution entity of the global systemically important institution.

(8) If the joint decision referred to in Paragraphs one and four of this Section is not taken within four months, the Financial and Capital Market Commission shall take such decision in accordance with Sections 63.1, 63.2, 63.3, and 63.4 of this Law.

(9) If the joint decision referred to in Paragraphs one and four of this Section is not taken within four months in relation to the disagreement over the level of the requirement for the consolidated resolution group and the requirement applicable to the institutions of the resolution group or financial companies individually, the Financial and Capital Market Commission shall take a decision on the following:

1) the level of the requirement for the consolidated resolution group in accordance with Sections 63.1 and 63.2 of this Law;

2) the level of the requirement applicable to subsidiaries of the resolution group individually in accordance with Sections 63.3 and 63.4 of this Law.

(10) The joint decision referred to in Paragraphs one and four of this Section and the decision taken by the resolution authorities in accordance with Paragraph four of this Section, Sections 63.1, 63.2, 63.3, and 63.4 shall be binding upon the relevant involved resolution authorities if the joint decision has not been taken.

(11) The Financial and Capital Market Commission shall, at least once a year, review the joint decision and any decisions taken if the joint decision has not been taken.

(12) The Financial and Capital Market Commission shall verify how institutions or financial companies fulfil the requirement for own funds and eligible liabilities referred to in Section 59, Paragraph one of this Law. The Financial and Capital Market Commission shall take all decisions in accordance with this Section by drawing up and maintaining resolution plans at the same time.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 63.1** (1) The Financial and Capital Market Commission shall lay down the minimum requirement for own funds and eligible liabilities on a consolidated basis in respect of a European Union parent company registered in the Republic of Latvia in accordance with Paragraphs two, three, and four of this Section. The Financial and Capital Market Commission, a group-level resolution authority if it is other than the Financial and Capital Market Commission, and resolution authorities of subsidiaries shall take all necessary measures to take a joint decision on the minimum requirement for own funds and eligible liabilities at the consolidated resolution group level.

(2) If such joint decision has not been taken in relation to the disagreement over the consolidated minimum requirement for own funds and eligible liabilities of the resolution group laid down in accordance with Section 60.2 of this Law, the decision on the respective requirement shall be taken by the Financial and Capital Market Commission as a resolution authority of the resolution entity registered in the Republic of Latvia after it has taken into account the following:

1) the assessment and objections made by the resolution authorities of institutions of the resolution group or financial companies other than resolution entities;

2) the opinion and objections of the group-level resolution authority if it is not the Financial and Capital Market Commission.

(3) If, at the end of the four-month period, any of the resolution authorities has referred the matter for examination to the European Banking Authority in accordance with Article 19 of Regulation No 1093/2010, the Financial and Capital Market Commission as a resolution authority of the resolution entity shall postpone taking of the decision, wait for a decision of the European Banking Authority that it may take in accordance with Article 19(3) of the respective Regulation, and take its own decision in accordance with the decision of the European Banking Authority in line with Paragraph two, Clauses 1 and 2 of this Section. The Financial and Capital Market Commission shall consider the four-month period to be the conciliation period within the meaning of Regulation No 1093/2010.

(4) After the end of the four-month period or after taking of the joint decision, the Financial and Capital Market Commission may not refer the matter for examination to the European Banking Authority. If the European Banking Authority has not taken the decision within one month, the decision shall be taken by the Financial and Capital Market Commission.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 63.2** (1) The Financial and Capital Market Commission as a resolution authority of a subsidiary, other than the resolution entity, registered in the Republic of Latvia of a European Union parent company of another Member State shall take all measures within its competence in order to take the joint decision together with a resolution authority of the resolution entity or group-level resolution authority on the level of the minimum requirement for own funds and eligible liabilities which is laid down in accordance with Section 60.2 of this Law and applied at the consolidated resolution group level.

(2) If the joint decision referred to in Paragraph one of this Section has not been taken within four months and the group-level resolution authority has not taken into account the assessment and objections made by the Financial and Capital Market Commission as an institution of the resolution group registered in the Republic of Latvia or resolution authority of a financial company other than the resolution entity, the Financial and Capital Market Commission is entitled to refer the matter for examination to the European Banking Authority in accordance with Article 19 of Regulation No 1093/2010.

(3) After the end of the four-month period or after taking of the joint decision, the Financial and Capital Market Commission may not refer the matter for examination to the European Banking Authority. If the European Banking Authority has not taken a decision within one month, the Financial and Capital Market Commission shall be bound by the decision of the group-level resolution authority.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 63.3** (1) The Financial and Capital Market Commission as a resolution authority of a subsidiary registered in the Republic of Latvia shall lay down the minimum requirement for own funds and eligible liabilities in accordance with Section 61 of this Law and apply it to the respective subsidiary individually in accordance with the requirements of this Section.

(2) If the joint decision is not taken within four months in relation to the disagreement over the level of the minimum requirement for own funds and eligible requirements laid down in Section 61 of this Law and applicable individually to any institution of the resolution group or financial company other than the resolution entity, the Financial and Capital Market Commission as a resolution authority of a subsidiary registered in the Republic of Latvia of a European Union parent company of another Member State shall take a decision on the following:

1) the opinion expressed and objections raised by the resolution authority of the resolution entity in writing;

2) the opinion expressed and objections raised by the group-level resolution authority if the group-level resolution authority is different from the resolution authority of the resolution entity.

(3) If, at the end of the four-month period, the resolution authority of the resolution entity or the group-level resolution authority has referred the matter for examination to the European Banking Authority in accordance with Article 19 of Regulation No 1093/2010, the Financial and Capital Market Commission as a resolution authority that is individually responsible for a subsidiary registered in the Republic of Latvia of a European Union parent company of another Member State shall postpone taking of the decision, wait for a decision of the European Banking Authority that it may take in accordance with Article 19(3) of the respective Regulation, and take its own decision in accordance with the decision of the European Banking Authority in line with Paragraph two, Clauses 1 and 2 of this Section. The Financial and Capital Market Commission shall consider the four-month period to be the conciliation period within the meaning of Regulation No 1093/2010.

(4) After the end of the four-month period or after taking of the joint decision, the Financial and Capital Market Commission as a resolution authority that is individually responsible for a subsidiary registered in the Republic of Latvia of a European Union parent company of another Member State may not refer the matter for examination to the European Banking Authority. If the European Banking Authority has not taken the decision within one month after referral of the matter thereto, the decision shall be taken by the Financial and Capital Market Commission.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 63.4** (1) The Financial and Capital Market Commission as a resolution authority of the resolution entity or the group-level resolution authority shall take all measures within its competence in order to take the joint decision together with the resolution authority of the subsidiary of the group on the level of the minimum requirement for own funds and eligible liabilities which is laid down in accordance with Section 61 of this Law and applied to the subsidiary individually.

(2) If the relevant resolution authorities do not take the joint decision referred to in Paragraph one of this Section within four months and the resolution authority of the subsidiary of the group has not taken into account the assessment and objections made by the Financial and Capital Market Commission as a resolution authority of the resolution entity or group-level resolution authority in writing, the Financial and Capital Market Commission is entitled to refer the matter for examination to the European Banking Authority in accordance with Article 19 of Regulation No 1093/2010.

(3) If the Financial and Capital Market Commission as a resolution authority of a European Union parent company registered in the Republic of Latvia or group-level resolution authority does not refer the matter to the European Banking Authority after the end of the four-month period or after taking of the joint decision, and also if the level of the minimum requirement for own funds and eligible liabilities laid down in respect of the resolution authority of a subsidiary is in the amount of 2 per cent of the total exposure value that is calculated in accordance with Article 92(3) of Regulation No 575/2013 from the requirement referred to in Section 60.2 of this Law and conforms to Section 60, Paragraphs eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, and twenty-six of this Law, the Financial and Capital Market Commission shall be bound by the decision taken by the resolution authority of the subsidiary of the group.

(4) If the European Banking Authority has not taken the decision within one month after referral of the matter thereto, the Financial and Capital Market Commission shall ensure enforcement of the decision taken by the resolution authority of the subsidiary.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 64.** (1) Institutions or financial companies to which the minimum requirement for own funds and eligible liabilities referred to in Section 59, Paragraph one of this Law applies shall submit to the Financial and Capital Market Commission statements regarding the following:

1) the amount of own funds under the conditions referred to in Section 61, Paragraph six, Clause 2 of this Law and the amount of eligible liabilities. The amounts of own funds and eligible liabilities expressed in accordance with Section 59, Paragraph two of this Law shall be indicated after deductions in accordance with Articles 72e, 72f, 72g, 72h, 72i, and 72g of Regulation No 575/2013;

2) the amount of other bail-inable liabilities;

3) the items referred to in Clauses 1 and 2 of this Paragraph by indicating the following:

a) the composition thereof, including the maturity profile;

b) the priority thereof in insolvency proceedings;

c) whether they are governed by the laws and regulations of a third country (if yes, indicate the relevant country) and whether they contain the contract provisions referred to in Section 76, Paragraph one of this Law, Article 52(1)(p) and (q) and Article 63(n) and (o) of Regulation No 575/2013.

(2) The obligation to report on amounts of other bail-inable liabilities which has been referred to in Paragraph one, Clause 2 of this Section shall not be applicable to institutions and financial companies if the amount of their own funds and eligible liabilities on the day of reporting the information is at least 150 per cent of the minimum requirement for own funds and eligible liabilities referred to in Section 59, Paragraph one of this Law and it has been calculated in accordance with Paragraph one, Clause 1 of this Section.

(3) The institutions and financial companies referred to in Paragraph one of this Section shall provide the following:

1) at least once every six months – the information referred to in Paragraph one, Clause 1 of this Section;

2) at least once a year – the information referred to in Paragraph one, Clauses 2 and 3 of this Section.

(4) The Financial and Capital Market Commission may request that the institutions and financial companies referred to in Paragraph one of this Section provide the information specified in Paragraph one of this Section more frequently.

(5) The institutions and companies referred to in Paragraph one of this Section shall make the following information public at least once a year:

1) where applicable – the amount of own funds under the conditions referred to in Section 61, Paragraph six, Clause 2 of this Law and the amount of eligible liabilities;

2) the composition of the items referred to in Clause 1 of this Paragraph, including the maturity profile and priority in insolvency proceedings;

3) the minimum requirements for own funds and eligible liabilities referred to in Sections 60.2 and 61 of this Law which has been expressed in accordance with Section 59, Paragraph two of this Law.

(6) Paragraphs one and five of this Section shall not be applicable to the institutions and financial companies the resolution plan of which envisages that the relevant entity will be wound up in accordance with insolvency proceedings.

(7) In the case of taking the resolution actions or implementing the write-down or conversion power referred to in Section 77 of this Law, the requirements for making public the information referred to in Paragraph five of this Section shall be applicable from the date which is the time period referred to in Section 66, Paragraph three and Paragraphs 4, 5, and 6 of the Transitional Provisions of this Law by which the requirements of Sections 60.2 and 61 of this Law are to be fulfilled.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 65.** (1) All cases where the minimum requirement for own funds and eligible requirements laid down in Section 60.2 or 61 of this Law is not conformed to shall be addressed by the Financial and Capital Market Commission in at least one of the following manners:

1) exercising the right to address or remove the impediments to resolvability in accordance with Sections 20, 21, and 22 of this Law;

2) exercising the right referred to in Section 18.1 of this Law;

3) implementing the measures referred to in Section 36.3, Paragraph four, Section 101.3, Paragraphs 4.4, 4.5, 4.6, and Paragraph 4.7, Clause 2 of the Credit Institution Law;

4) implementing early intervention measures in accordance with Section 33 of this Law;

5) imposing sanctions in accordance with Section 129, Paragraph one or administrative measures in accordance with Section 129, Paragraph two of this Law.

(2) The Financial and Capital Market Commission may, in accordance with Section 39, 39.1, or 40 of this Law, carry out an assessment as to whether institutions or financial companies become or are likely to become insolvent.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 66.** (1) The requirements referred to in Section 60, Paragraphs fourteen, fifteen, sixteen, and seventeen of this Law shall not be applicable for two years from the day when the Financial and Capital Market Commission has applied the bail-in tool or the resolution entity has introduced an alternative private sector measure which has been referred to in Section 39, Paragraph one, Clause 2 of this Law and by which capital instruments and other liabilities have been written down or converted in Common Equity Tier 1 instruments, or when the write-down or conversion power has been implemented in respect of the respective resolution entity in accordance with Section 77 of this Law to recapitalise the resolution entity without applying resolution instruments.

(2) The requirements referred to Section 59.1, Paragraphs seven, eight, nine, ten, eleven, and sixteen, and also Section 60, Paragraphs fourteen, fifteen, sixteen, and seventeen of this Law shall not be applicable for three years after the day when the resolution entity or group which includes it has been identified as a global systemically important institution or if the resolution entity finds itself in the situation referred to in Section 60, Paragraph fourteen, fifteen, or Paragraphs sixteen and seventeen of this Law.

(3) By way of derogation from Section 59 of this Law, the Financial and Capital Market Commission shall set a transitional period within which the requirements laid down in Section 60.2 or 61 of this Law or, where applicable, the requirements arising from Section 59.1, Paragraphs seven, eight, nine, ten, eleven, twelve, thirteen, or sixteen of this Law are fulfilled by the institution or financial company in respect of which resolution tools have been applied or the write-down or conversion power referred to in Section 77 of this Law has been implemented.

(4) In applying the transitional periods specified in Paragraphs one, two, and three of this Section, the Financial and Capital Market Commission or financial company shall be informed of the planned minimum requirement for own funds and eligible liabilities for each 12-month period within the transitional period in order to facilitate gradual increase of its loss absorption and recapitalisation capacity. At the end of the transitional period the minimum requirement for own funds and eligible liabilities shall be equal to the amount specified in accordance with Section 59.1, Paragraphs seven, eight, nine, ten, eleven, twelve, thirteen, or sixteen, Section 60, Paragraphs fourteen, fifteen, sixteen, and seventeen, Section 60.2 or 61 of this Law.

(5) In setting the transitional period referred to in Paragraphs one, two, and three of this Section, the Financial and Capital Market Commission shall take into account the following:

1) the prevalence of deposits and absence of debt instruments in the funding model;

2) the access to financial markets for financing eligible liabilities;

3) the amount in which the resolution entity depends on the Common Equity Tier 1 to fulfil the requirement referred to in Section 60.2 of this Law.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 66.1** The Financial and Capital Market Commission shall inform the European Banking Authority of the minimum requirement for own funds and eligible liabilities which has been laid down for an institution under supervision thereof in accordance with Section 60.2 or 61 of this Law.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 67.** (1) In applying the bail-in tool, the Financial and Capital Market Commission shall, on the basis of a valuation in accordance with Sections 45, 46, and 47 of this Law, assess the total amount consisting of the following:

1) the amount by which bail-inable liabilities are to be written down in order to ensure that the net asset value of the institution under resolution is equal to zero;

2) the amount by which bail-inable liabilities are to be converted into shares or other types of capital instruments in order to restore or ensure the Common Equity Tier 1 capital ratio for the institution under resolution or the bridge institution.

(2) The assessment referred to in Paragraph one of this Section shall determine the total amount of bail-inable liabilities by which such liabilities are to be written down or converted in order to restore the Common Equity Tier 1 capital ratio of the institution under resolution or to ensure the Common Equity Tier 1 capital ratio of the bridge institution taking into account any capital contribution made by the resolution fund, and in order to maintain trust of market operators and public in the institution under resolution or the bridge institution, and also to ensure its conformity, for at least one year, to the conditions for obtaining a licence (authorisation) in accordance with the Credit Institution Law or the Financial Instrument Market Law and to continue activities for which it has obtained the licence (authorisation) in accordance with the respective laws. If the Financial and Capital Market Commission intends to use the asset separation tool referred to in Section 52 of this Law, the amount by which bail-inable liabilities are to be reduced shall take into account accordingly the amount of the capital necessary for the asset management company which has been specified on the basis of prudent assumptions.

(3) A consideration may be disbursed to creditors and afterwards to shareholders or persons who own other instruments of ownership if the following conditions are complied with:

1) the capital is written down in accordance with Sections 77, 78, 79, and 80 of this Law;

2) the bail-in has been applied in accordance with Section 53, Paragraph one of this Law;

3) based on the preliminary valuation in accordance with Sections 45, 46, and 47 of this Law, it is detected that the scope of write-down is greater than it could be when assessed against the definitive valuation in accordance with Section 47, Paragraph two of this Law.

(4) The Financial and Capital Market Commission shall determine and maintain measures to ensure that the assessment referred to in this Section is based on information on the assets and liabilities of the institution under resolution which is as up to date and comprehensive as possible.

[*30 September 2021; 28 April 2022* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraphs 4 and 13 of Transitional Provisions*]

**Section 68.** (1) Upon applying the bail-in tool referred to in Section 53, Paragraph one of this Law or the write-down or conversion of capital instruments referred to in Section 77 of this Law, the Financial and Capital Market Commission shall take at least one of the following actions in respect of shareholders and such persons who own other instruments of ownership:

1) cancel shares or other instruments of ownership owned by such persons or transfer them to bailed-in creditors;

2) if, according to the valuation carried out in accordance with Sections 45, 46, and 47 of this Law, the institution under resolution has a positive net value of assets, the composition of existing shareholders and such persons who own other instruments of ownership is diluted as a result of the conversion into shares or other instruments of ownership:

a) of the relevant capital instruments issued or attracted by the institution in accordance with the rights referred to in Section 77, Paragraph two of this Law;

b) of the bail-inable liabilities issued or attracted by the institution under resolution in accordance with the powers referred to in Section 85, Paragraph one, Clause 6 of this Law.

(2) The conversion referred to in Paragraph one, Clause 2 of this Section shall be conducted at a rate of conversion by the application of which existing undivided share of the ownership of the shareholders and holders of other instruments of ownership is severely reduced.

(3) The actions referred to in Paragraphs one and two of this Section shall also be taken in respect of shareholders and such persons who own other instruments of ownership and whose shares or other instruments of ownership were issued or conferred in the following circumstances:

1) after conversion of debt instruments to shares or other instruments of ownership in accordance with the contractual terms of the original debt instruments upon occurrence of conversion concurrently with the assessment of the Financial and Capital Market Commission or prior to such assessment that the institution or financial company meets the conditions for resolution;

2) after conversion of the relevant capital instruments to Common Equity Tier 1 instruments in accordance with Section 78 of this Law.

(4) In considering which of the actions referred to in Paragraphs one and two of this Section should be taken, the Financial and Capital Market Commission shall take into account the following:

1) the valuations carried out in accordance with Sections 45, 46, and 47 of this Law;

2) the amount by which the Common Equity Tier 1 items must be reduced in the valuation thereof and the relevant capital instruments must be written down or converted in accordance with Section 78, Paragraph one of this Law;

3) the total amount assessed by it in accordance with the requirements of Section 67 of this Law.

(5) The assessment of a person in respect of acquisition or increase of a qualifying holding is carried out in a reasonable time period in order not to delay the application of the bail-in tool or the conversion of capital instruments or not to cause obstacles for achieving the relevant objectives of the resolution action.

(6) If the valuation of a person in respect of acquisition or increase of a qualifying holding is not completed on the date of application of the bail-in tool or the conversion of capital instruments, the conditions referred to in Section 48, Paragraph five of this Law shall be applied to any acquisition of or increase in a qualifying holding by an acquirer resulting from the application of the bail-in tool or the conversion of capital instruments.

[*16 February 2017; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 69.** (1) When applying the bail-in tool, the Financial and Capital Market Commission shall implement the write-down and conversion powers, taking into account the exclusions referred to in Section 54 and Section 55, Paragraph one of this Law, and also all of the following requirements consecutively:

1) Common Equity Tier 1 items are written down in accordance with Section 78, Paragraph one, Clause 1 of this Law;

2) if the total reduction in accordance with Paragraph one, Clause 1 of this Section is less than the total amount referred to in Section 68, Paragraph four, Clauses 2 and 3 of this Law, the Financial and Capital Market Commission shall write down the principal amount of Additional Tier 1 instruments to the extent required and in conformity with the capacity for covering of losses from these instruments;

3) if the total reduction in accordance with Paragraph one, Clauses 1 and 2 of this Section is less than the total amount referred to in Section 68, Paragraph four, Clauses 2 and 3 of this Law, the Financial and Capital Market Commission shall write down the principal amount of Tier 2 instruments to the extent required and in conformity with the capacity for covering of losses from these instruments;

4) if the total reduction of shares or other instruments of ownership and relevant capital instruments in accordance with Paragraph one, Clauses 1, 2, and 3 of this Section is less than the total amount referred to in Section 68, Paragraph four, Clauses 2 and 3 of this Law, the Financial and Capital Market Commission shall write down to the extent required the principal amount of subordinated liability that is not Additional Tier 1 or Tier 2 capital according to the hierarchy of claims of creditors to be applied in the case of insolvency proceedings, having regard to Paragraph one, Clauses 1, 2, and 3 of this Section;

5) if the total reduction of shares or other instruments of ownership, relevant capital instruments and bail-inable liabilities (including debt instruments) in accordance with Paragraph one, Clauses 1, 2, 3, and 4 of this Section is lower than the total amount referred to in Section 68, Paragraph four, Clauses 2 and 3 of this Law, the Financial and Capital Market Commission shall, to the extent required, write down the principal amount or outstanding amount of the rest of bail-inable liabilities (including debt instruments) other than subordinated liabilities in accordance with the procedures for the satisfaction of claims of creditors applicable in the case of insolvency proceedings by taking into account Sections 54, 55, 56, 57, and 58 of this Law and Paragraph one, Clauses 1, 2, 3, and 4 of this Section.

(2) In implementing the write-down or conversion power, the Financial and Capital Market Commission shall allocate the losses represented by the total amount referred to in Section 68, Paragraph four, Clauses 2 and 3 of this Law proportionally between shares or other instruments of ownership and bail-inable liabilities of the same rank, reducing the principal amount or outstanding amount of those shares or other instruments of ownership and bail-inable liabilities accordingly pro rata to their value, except for the cases referred to in Section 54, Paragraph four and Section 55, Paragraph one of this Law when a different allocation of losses amongst liabilities of the same priority is allowed.

(3) By way of derogation from the requirements of Paragraph two of this Section, the liabilities excluded from bail-in in accordance with Section 54 and Section 55, Paragraph one of this Law, more favourable conditions may be applied than to the bail-inable liabilities which in the case of insolvency proceedings are of the same class.

(4) Before applying the write-down or conversion referred to in Paragraph one, Clause 5 of this Section, the Financial and Capital Market Commission shall write down or convert the principal amount on instruments referred to in Paragraph one, Clauses 2, 3, and 4 of this Section if those instruments have not been converted yet and the provisions that provide for the principal amount of the instrument to be written down or instruments to be converted into shares or other instruments of ownership on the occurrence of any event that refers to the financial situation, solvency, or levels of own funds of the institution or financial company are binding thereon.

(5) If the principal amount of an instrument has been written down, but not to zero, in accordance with the provisions referred to in Paragraph four of this Sections on write-down of the principal amount of an instrument before the application of the bail-in tool, the Financial and Capital Market Commission shall implement the write-down and conversion powers to the residual amount of that principal amount.

(6) Upon deciding on whether liabilities are to be written down or converted into equity, the Financial and Capital Market Commission is not entitled to convert one class of liabilities, while a class of liabilities that is subordinated to that class remains substantially unconverted into equity or not written down, except for the case when it is permitted in accordance with Section 54 and Section 55, Paragraph one of this Law.

(7) In the case of insolvency proceedings, all claims regarding elements of own funds of institutions and financial companies shall have a lower class than the claims not arising from the own funds item. Insofar as the bail-in tool is only partly recognised as an own funds item, all tools shall be considered a claim arising from the own funds item and, in the case of insolvency proceedings, it shall have a lower class than any other claim not arising from the own funds item.

[*16 February 2017; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 70.** (1) The Financial and Capital Market Commission shall conform to the requirements of this Section, upon implementing the write-down or conversion powers in relation to liabilities arising from derivatives.

(2) The Financial and Capital Market Commission shall implement the write-down or conversion powers in relation to a liability arising from a derivative only upon or after closing-out the derivatives. The Financial and Capital Market Commission has the right to terminate and close out any derivative contract for the purpose of resolution action. If a liability arising from derivatives has been excluded from the application of the bail-in tool in accordance with Section 54, Paragraph four and Section 55, Paragraph one of this Law, the Financial and Capital Market Commission does not have an obligation to terminate or close out the derivative contract

(3) If derivative transactions are subject to a close-out netting contract, the Financial and Capital Market Commission or a valuer shall determine the liabilities arising from such transactions by taking into account the close-out netting contract which is part of the valuation provided for in Sections 45, 46, and 47 of this Law.

(4) The Financial and Capital Market Commission shall determine the value of liabilities arising from derivatives according to the following:

1) appropriate methods for determining the value of classes of derivatives, including transactions that are subject to close-out netting contracts;

2) appropriate principles for establishing the relevant point in time at which the value of a derivative position should be established;

3) appropriate methods for comparing the destruction in value that would arise from the close-out and bail-in of derivatives with the amount of losses that would be borne by derivatives in a bail-in.

(5) The methods and principles referred to in Paragraph four of this Section for determining the value of liabilities which are arising from derivatives shall be determined in accordance with the directly applicable legal acts of the European Union.

[*16 February 2017; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 71.** (1) If the Financial and Capital Market Commission implements the rights referred to in Section 77, Paragraph three and Section 85, Paragraph one, Clause 6 of this Law, it may apply different conversion rates to different classes of capital instruments and liabilities in accordance with one or several of the principles referred to in Paragraph two or three of this Section.

(2) The conversion rate shall represent appropriate compensation to the creditor for any losses incurred by virtue of the implement of the write-down or conversion powers.

(3) If different conversion rates are applied in accordance with the requirements of Paragraph one of this Section, the conversion rate applicable to liabilities that are considered to be senior in accordance with the applicable laws and regulations governing insolvency shall be higher than the conversion rate applicable to subordinated liabilities.

**Section 72.** If the Financial and Capital Market Commission applies the bail-in tool to recapitalise an institution or financial company in accordance with Section 53, Paragraph one, Clause 1 of this Law, the relevant institution or an authorised representative appointed by the financial company or the Financial and Capital Market Commission shall draw up and implement the reorganisation plan.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 73.** (1) The institution or the authorised representative appointed by the financial company or the Financial and Capital Market Commission shall, within one month after application of the bail-in tool, submit to the Financial and Capital Market Commission a reorganisation plan which conforms to the requirements of this Section and, in the case of application of the State aid, to the legal framework of State aid in accordance with Section 53, Paragraph one, Clause 1 of this Law.

(2) If the bail-in tool referred to in Section 53, Paragraph one, Clause 1 of this Law is applied to two or more group companies, the reorganisation plan shall be prepared by the European Union parent company. The abovementioned plan shall cover all of the institutions in the group in accordance with the procedures laid down in Sections 7 and 8 of this Law, and the European Union parent company shall submit it to the group-level resolution authority. If the Financial and Capital Market Commission is the group-level resolution authority, it shall send the received reorganisation plan to other resolution authorities concerned and to the European Banking Authority.

(3) In order to achieve the resolution objectives, the Financial and Capital Market Commission as the resolution authority of the institution under resolution or the group-level resolution authority may extend the time period for the submission of the reorganisation plan by a maximum of two months after application of the bail-in tool if the reorganisation plan does not include State aid. If the reorganisation plan includes State aid, the time period for the submission of the plan may be extended to the time period determined in the laws and regulations regarding State aid but by a maximum of two months.

(4) A reorganisation plan shall set out measures aiming to restore the long-term viability of the institution or financial company or parts of its commercial activity within a reasonable time period. Those measures shall be based on assumptions as to the economic and financial market situation under which the institution or financial company will operate.

(5) The reorganisation plan shall take account of the current state of the financial markets and future prospects, reflecting best-case and worst-case assumptions allowing the identification of the main vulnerabilities of the institution or financial company. Assumptions shall be compared with other sector-wide benchmarks.

(6) A reorganisation plan includes at least the following information:

1) a detailed analysis of the factors and problems that facilitated financial difficulties of the institution or financial company, and also analysis on the circumstances that led to the abovementioned difficulties;

2) a description of the measures aiming to restore the long-term viability of the institution or financial company which are intended to be implemented;

3) a timetable for the implementation of the abovementioned measures.

(7) The measures referred to in Paragraph six of this Section may include:

1) the reorganisation of the activities of the institution or financial company;

2) the changes in the operational systems and infrastructure of the institution or financial company;

3) the withdrawal from loss-making activities;

4) the restructuring of such existing activities which can be made competitive;

5) the sale of assets or of business lines.

(8) Within one month from the date of submitting the reorganisation plan to the Financial and Capital Market Commission, it shall assess the likelihood that the plan, if implemented, will restore the long-term viability of the institution or financial company. If the Financial and Capital Market Commission considers that the plan would achieve the relevant objective, it shall approve the plan.

(9) If the Financial and Capital Market Commission is not certain that it is possible to restore the long-term viability of the institution or financial company with the help of the reorganisation plan, it shall inform the person responsible for the submission of the plan and request to amend the plan within two weeks in a way that addresses the problematic issues and to submit it to the Financial and Capital Market Commission. The Financial and Capital Market Commission shall assess the amended plan and notify the institution within a week whether the problematic issues have been solved and whether additional amendments are required.

(10) The supervisory board or executive board of the institution or the authorised representative appointed by the Financial and Capital Market Commission shall implement the reorganisation plan approved by the Financial and Capital Market Commission and submit a report to the Financial and Capital Market Commission at least once every six months on progress in implementation of the plan.

(11) The supervisory board or executive board of the institution or the authorised representative appointed by the Financial and Capital Market Commission shall review the reorganisation plan if the Financial and Capital Market Commission considers that it is necessary to restore the long-term viability of the institution under resolution, and shall submit all amendments to the Financial and Capital Market Commission for approval.

[*16 February 2017; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 74.** (1) If the Financial and Capital Market Commission implements the powers referred to in Section 77, Paragraph two and Section 85, Paragraph one, Clauses 5, 6, 7, 8, and 9 of this Law, the reduction or conversion of the principal or outstanding amount due shall enter into effect and shall be immediately binding on the institution under resolution, its creditors, shareholders and persons who own other instruments of ownership.

(2) The Financial and Capital Market Commission has the right to require the performance of all the tasks necessary to implement the powers referred to in Section 77, Paragraph two and Section 85, Paragraph one, Clauses 5, 6, 7, 8, and 9 of this Section, including to assign to make all the necessary changes in the relevant registers, to assign to remove shares, other instruments of ownership, or debt instruments from trading, to assign to admit new shares or other instruments of ownership to trading, and also to assign to relist any debt instruments which have been written down, without publishing of a prospectus in accordance with the Financial Instrument Market Law.

(3) If the Financial and Capital Market Commission reduces to zero the principal amount of, or outstanding amount payable in respect of, a liability by means of the power specified in Section 85, Paragraph one, Clause 5 of this Law, any obligations or claims arising from such liability which are not accrued at the time when the power is implemented shall be regarded as invalid.

(4) If the Financial and Capital Market Commission reduces in part, but not in full, the principal amount of, or outstanding amount payable in respect of, a liability by means of the power specified in Section 85, Paragraph one, Clause 5 of this Law, the liability shall be discharged to the extent of the amount reduced and the relevant instrument or agreement that created the original liability shall continue to apply in relation to the residual principal amount of, or outstanding amount payable in respect of the liability, and any changes in the amount of interest payable to reflect the reduction of the principal amount and any further amendments to the terms which the Financial and Capital Market Commission might make by means of the power specified in Section 85, Paragraph one, Clause 10 of this Law shall apply to it.

**Section 75.** (1) In addition to Section 85, Paragraph one, Clause 9 of this Law, the Financial and Capital Market Commission is entitled to determine the requirement for the institution or financial company to maintain a sufficient amount of the authorised share capital or of other Common Equity Tier 1 instruments, so that, if the Financial and Capital Market Commission implements the powers referred to in Section 85, Paragraph one, Clauses 5 and 6 of this Law in relation to the institution or financial company or any of its subsidiaries, the institution or financial company might issue sufficient number of new shares or other instruments of ownership, thus ensuring that the conversion of liabilities into shares or other instruments of ownership could be implemented effectively.

(2) The Financial and Capital Market Commission shall assess whether it is appropriate for the institution or financial company to impose the requirement of Paragraph one of this Section in relation to the drawing up and maintenance of the resolution plan for such institution or financial company or group, taking into account the resolution actions provided for in that plan. If the possibility to apply the bail-in tool is provided for in the resolution plan, the Financial and Capital Market Commission shall verify whether the authorised share capital or other Common Equity Tier 1 instruments are sufficient to cover the total amount referred to in Section 68, Paragraph four, Clauses 2 and 3 of this Law.

(3) The requirement laid down in the Commercial Law regarding the procedures for the increase in share capital and use of pre-emption rights by shareholders shall not be applicable to conversion of liabilities to shares or other instruments of ownership.

**Section 76.** (1) In taking on liabilities the institutions and financial companies shall include in the concluded contracts a provision envisaging that the write-down or conversion power may be applied to the liabilities if such liabilities:

1) are not excluded from liabilities in accordance with Section 54, Paragraphs one, two, and three of this Law;

2) are not the claims of natural persons and micro, small and medium-sized enterprises above the amount to be disbursed in the guaranteed compensation;

3) are governed by the legal acts of a foreign country;

4) have arisen after coming into force of this Law.

(2) If the minimum requirement for own funds and eligible liabilities of the institution or financial company is equal to the amount of the losses to be absorbed and liabilities of the institution or financial company conform to Paragraph one of this Section but the concluded contracts do not contain a provision regarding write-down or conversion power and they are not included in the minimum requirement for own funds and eligible liabilities, the Financial and Capital Market Commission may allow the institution or financial company not to fulfil the requirement laid down in Paragraph one of this Section.

(3) The institution or financial company shall not be obliged to ensure fulfilment of the requirements of Paragraph one of this Section if the Republic of Latvia has concluded a contract with the relevant foreign country on the write-down or conversion power of liabilities or such power is arising from the laws and regulations of the relevant foreign country.

(4) If the institution or financial company establishes that it is not possible to include a provision in the concluded contract that write-down or conversion power can be applied to liabilities, it shall notify the Financial and Capital Market Commission of this finding. The institution or financial company shall provide the Financial and Capital Market Commission with any information requested by it in order for the Financial and Capital Market Commission to assess how the liabilities indicated in the notification affect resolvability of the respective institution or financial company. Starting from the moment of receipt of the notification, the obligation of the institution or financial company to fulfil the requirements referred to in Paragraph one of this Section shall be suspended.

(5) If the Financial and Capital Market Commission concludes that it is not possible to include a provision in the concluded contracts that write-down or conversion power can be applied to liabilities, it shall request the institution or financial company to include such provision in the contract within a reasonable time period. The Financial and Capital Market Commission has the right to instruct the institution or financial company to change its previous practice in respect of non-inclusion of the provision regarding write-down or conversion power in the contracts.

(6) The liabilities referred to in Paragraph one of this Section shall not include Additional Tier 1 instruments, Tier 2 instruments, and the debt instruments referred to in Section 1, Paragraph one, Clause 43 of this Law if the debt instruments are unsecured liabilities.

(7) If in carrying out the resolvability assessment of an institution or financial company in accordance with Sections 17 and 18 of this Law or at any other time, the Financial and Capital Market Commission detects that in the class of liabilities which include eligible liabilities the amount of liabilities not containing a provision that write-down or conversion power can be applied to liabilities, together with the liabilities that are excluded from application of the bail-in tool in accordance with Section 54, Paragraphs one, two, and three of this Section or that are likely to be excluded in accordance with Section 54, Paragraph four of this Law, exceeds 10 per cent of the amount of the respective class, it shall assess, in a timely manner, the impact of such circumstances on resolvability of the respective institution or financial company, including in the case where upon implementation of the write-down or conversion power the protective measures for creditors specified in Section 95 need not be complied with.

(8) If the Financial and Capital Market Commission concludes, on the basis of the assessment referred to in Paragraph four of this Section, that liabilities which do not contain the contract provision referred to in Paragraph one of this Section creates a substantive impediment to resolvability, it shall act in accordance with the procedures laid down in Section 20 of this Law.

(9) Liabilities in respect of which the institution or financial company has not included in the provisions of a contract the provision referred to in Paragraph one of this Section that write-down or conversion power can be applied to the liabilities or in respect of which the respective requirement is not applicable shall not be included in the minimum requirement for own funds and eligible liabilities.

(10) The Financial and Capital Market Commission is entitled to request the institution or financial company to provide a substantiated assessment of the possibility to implement the agreement referred to in Paragraph three of this Section.

(11) In compliance with the conditions provided for in the guidelines of the European Banking Authority, the Financial and Capital Market Commission may determine for the institution or financial company the classes of liabilities from which finding can be made that it is not possible for legal or any other reasons to include a contract provision that the write-down or conversion power can be applied to the liabilities.

(12) If the institution or financial company had an obligation to ensure the performance of the requirements of Paragraph one of this Section, however, it has not been done, the Financial and Capital Market Commission is entitled to implement the write-down or conversion power in respect of these liabilities.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Chapter XII**

**Write-down and Conversion of Capital Instruments and Eligible Liabilities**

[*30 September 2021*]

**Section 77.** (1) The power to write down or convert the relevant capital instruments and eligible liabilities may be used as follows:

1) independently from performance of a resolution action;

2) in combination with a resolution action if the conditions for resolution referred to in Sections 39, 39.1, and 40 of this Law are met.

(11) If the resolution entity has purchased the relevant capital instruments and eligible liabilities indirectly through another entity within the same resolution group, the power to write down or convert the relevant capital instruments and eligible liabilities shall be implemented together with the same power at the level of a parent company of the relevant entity or at the level of other parent companies other than resolution entities, so that losses are actually transferred to the entity under resolution and it recapitalises the relevant entity. After implementation of the power to write down or convert the relevant capital instruments and eligible liabilities independently of the resolution action, the valuation referred to in Paragraph 96 of this Law shall be performed and Section 97 of this Law shall be applied.

(12) The power to write down or convert eligible liabilities independently of the resolution action may only be used in respect of the eligible liabilities which meet the conditions referred to in Section 61, Paragraph six, Clause 1 of this Law, except for the condition regarding the residual maturity of liabilities specified in Article 72c(1) of Regulation No 575/2013. After implementation of the respective power, write-down or conversion shall occur in accordance with the principle referred to in Section 41, Paragraph one, Clause 6 of this Law.

(13) If the resolution action is taken in respect of the resolution entity or, in derogation from the resolution plan in exceptional circumstances, in respect of an entity other than the resolution entity, the amount which is reduced, written down, or converted in accordance with Section 78, Paragraph one of this Law at the level of such entity shall be included in the threshold which has been specified in Section 81, Paragraph one, Clause 1 and Section 56, Paragraph one, Clause 1, or Section 57, Paragraph three, Clause 1 of this Law and is applied to the relevant entity.

(2) The Financial and Capital Market Commission is entitled to write down or convert the relevant capital instruments and the eligible liabilities referred to in Paragraph 1.2 of this Section into shares or other instruments of ownership of the institution or financial company.

(3) The Financial and Capital Market Commission shall immediately implement the write-down or conversion power in accordance with the requirements of Section 78 of this Law in respect of the relevant capital instruments and the eligible liabilities referred to in Paragraph 1.2 of this Section that have been issued or attracted by the institution or financial company if one of the following circumstances arises:

1) it is established prior to taking the resolution action that it meets the conditions for resolution referred to in Sections 39, 39.1, and 40 of this Law;

2) it is established that, unless write-down or conversion power is implemented in respect of the relevant capital instruments and the eligible liabilities referred to in Paragraph 1.2 of this Section, the institution or financial company will no longer be able to continue its commercial activity;

3) in relation to the relevant capital instruments issued or attracted by the subsidiary if the abovementioned capital instruments conform for the purposes of meeting own funds requirements on an individual basis and on a consolidated basis, it is detected that, unless the write-down or conversion power is implemented in relation to those instruments, the group will no longer be capable to continue its commercial activity;

4) in relation to the relevant capital instruments issued or attracted at the level of the parent company if the abovementioned capital instruments are conform for the purposes of meeting own funds requirements on an individual basis in the parent company or on a consolidated basis, it is detected that, unless the write-down or conversion power is implemented in relation to those instruments, the group will no longer be capable to continue its commercial activity;

5) it is detected that the institution or financial company requests the State aid, however, has not received it yet, except for the case when the financial support is provided in accordance with the provisions of Section 39, Paragraph three, Clause 4, Sub-clause “c” of this Law.

(4) It is deemed that the institution or financial company or a group is no longer capable to continue its commercial activity if both of the following conditions are met:

1) the institution or financial company or the group is or is likely to be in financial difficulties;

2) taking into account the situation at a specific time and other relevant circumstances, it is not expected that any action, including alternative private sector measures or action by the Financial and Capital Market Commission, including early intervention measures, other than the write-down or conversion of capital instruments or the eligible liabilities referred to in Paragraph 1.2 of this Section, independently or in combination with a resolution action, would prevent the insolvency of the institution or financial company, or the group within a foreseeable period of time.

(41) It is deemed that the institution or financial company is or is likely to be in financial difficulties if one or more of the conditions referred to in Section 39, Paragraph three of this Law are met.

(5) It is deemed that the group is in financial difficulties or is likely to be in financial difficulties if it violates or there are grounds to believe that in a foreseeable time period it will violate the prudential requirements laid down for it on a consolidated basis level (losses have arisen or are likely to arise for the group as a result of which all own funds or significant part of own funds will be utilised).

(6) The relevant capital instrument issued by a subsidiary shall not be written down to a greater extent or shall not be converted on worse terms in accordance with Paragraph three, Clause 3 of this Section than equally ranked capital instruments at the level of the parent company which have been written down or converted.

(7) If the Financial and Capital Market Commission makes the determination referred to in Paragraph three of this Section, it shall immediately notify thereof the resolution authority responsible for the particular institution or financial company.

(8) Before making the determination referred to Paragraph three, Clause 3 of this Section in relation to a subsidiary issuing the relevant capital instruments which conform for the purposes of meeting the own funds requirements on an individual basis and on a consolidated basis, the Financial and Capital Market Commission shall comply with the notification and consultation requirements laid down in Section 80 of this Law.

(9) Prior to implementing the power to write down or convert capital instruments or the eligible liabilities referred to in Paragraph 1.2 of this Section, the Financial and Capital Market Commission shall ensure that a valuation of the assets and liabilities of the institution or financial company is carried out in accordance with Sections 45, 46, and 47 of this Section. The respective valuation shall form the basis of the calculation of the write-down to be applied to the relevant capital instruments or the eligible liabilities referred to in Paragraph 1.2 of this Section in order to cover losses, and to the level of conversion to be applied to the relevant capital instruments or the eligible liabilities referred to in Paragraph 1.2 of this Section in order to recapitalise the institution or financial company.

(10) The Financial and Capital Market Commission shall be responsible for the determination referred to in Paragraph three of this Section in accordance with Section 79 of this Law.

[*16 February 2017; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 78.** (1) Upon fulfilling the requirements laid down in Section 77 of this Law, the Financial and Capital Market Commission shall implement the write-down or conversion power according to the procedures for the satisfaction of claims of creditors applicable in the case of insolvency proceedings, in a way that consecutively produces the following results:

1) Common Equity Tier 1 items are written down in proportion to the losses and to the extent of their capacity to cover such losses and the Financial and Capital Market Commission takes one or both of the actions referred to in Section 68, Paragraph one of this Law in respect of holders of Common Equity Tier 1 instruments;

2) the principal amount of Additional Tier 1 instruments is written down or converted into Common Equity Tier 1 instruments or both, to the extent required to achieve the resolution objectives referred to in Section 38 of this Law or to the extent of the capacity of the relevant capital instruments to cover the losses – whichever is lower;

3) the principal amount of Tier 2 instruments is written down or converted into Common Equity Tier 1 instruments or both, to the extent required to achieve the resolution objectives referred to in Section 38 of this Law or to the extent of the capacity of the relevant capital instruments to cover the losses – whichever is lower;

4) the principal amount of the eligible liabilities referred to in Section 77, Paragraph 1.2 of this Law is written down or converted into Common Equity Tier 1 instruments or written down or converted into Common Equity Tier 1 instruments to the extent required to achieve the resolution objectives referred to in Section 38 of this Law or to ensure that the eligible liabilities can cover losses, depending on whichever value is lower.

(11) In implementing the write-down or conversion power in accordance with Section 77, Paragraph 1.2 of this Law, the Financial and Capital Market Commission shall obtain assurance of the resolution strategy of the resolution group so that carrying out of the activities referred to in Section 77, Paragraph 1.2 of this Law would not affect the control of the resolution entity over a subsidiary.

(2) After write-down of the principal amount of the relevant capital instrument or the eligible liabilities referred to in Section 77, Paragraph 1.2 of this Law:

1) the reduction of the abovementioned principal amount shall be permanent, except for any write-up in accordance with the disbursement of the consideration provided for in Section 67, Paragraph three of this Law;

2) no liabilities to the holder of the relevant capital instruments or the eligible liabilities referred to in Section 77, Paragraph 1.2 of this Law shall remain in respect of the amount of such instrument which has been written down, except for liabilities already accrued (liabilities which may arise as a result of a partial write-down in respect of interest payments for debt instruments as of the reporting date on which the valuation for the period from the last day of interest payment has been prepared), and liability for coverage of losses that might arise if illegal implementation of the write-down power would have been detected by a court judgement;

3) consideration may be disbursed to the holders of the relevant capital instruments or the eligible liabilities referred to in Section 77, Paragraph 1.2 of this Law if the Common Equity Tier 1 instruments are issued in accordance with Paragraph four of this Section.

(3) [30 September 2021]

(4) In order to carry out a conversion of the relevant capital instruments and the eligible liabilities referred to in Section 77, Paragraph 1.2 of this Law in accordance with Paragraph one, Clauses 2, 3, and 4 of this Section, the Financial and Capital Market Commission is entitled to request the institution or financial company to issue Common Equity Tier 1 instruments to the holders of the relevant capital instruments and such eligible liabilities. The relevant capital instruments and such eligible liabilities may only be converted if the following conditions are met:

1) the respective Common Equity Tier 1 instruments are issued by the institution or financial company, or by a parent company of the institution or financial company with the consent of the resolution authority of the institution or financial company or of the resolution authority of the parent company;

2) the abovementioned Common Equity Tier 1 instruments are issued prior to any issuance of shares or other instruments of ownership by that institution or financial company in which investment in own funds is performed in accordance with the legal framework of State aid;

3) the abovementioned Common Equity Tier 1 instruments are transferred without delay following the implementation of the conversion power;

4) the conversion rate that determines the number of the Common Equity Tier 1 instruments which are provided in respect of each relevant capital instrument or each of the eligible liabilities referred to in Section 77, Paragraph 1.2 of this Law conforms to the principles set out in Section 71 of this Law and the guidelines issued by the European Banking Authority.

(41) In order to ensure application of the Common Equity Tier 1 instruments in accordance with Paragraph four of this Section, the Financial and Capital Market Commission may request the institution or financial company to maintain for the entire period of operation the necessary authorisation to issue a relevant number of the Common Equity Tier 1 instruments.

(5) If the institution meets the conditions for resolution and the Financial and Capital Market Commission decides to apply a resolution tool to that institution, the Financial and Capital Market Commission shall ascertain before application of the resolution tool whether the case referred to in Section 77, Paragraph three of this Law has set in.

[*16 February 2017; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 79.** (1) The Financial and Capital Market Commission shall be responsible for the finding referred to in Section 77, Paragraph three of this Law in respect of the institution or financial company if the relevant capital instruments issued or attracted thereby conform to the fulfilment of the requirements for own funds individually in accordance with the requirements of Article 92 of Regulation No 575/2013 or the requirements of Article 11 of Regulation No 2019/2033 and if the licence (authorisation) has been issued to such institution or financial company in accordance with the Credit Institution Law, the Law on Investment Firms, or the Law on Investment Management Companies.

(11) The Financial and Capital Market Commission shall be responsible for the finding referred to in Section 77, Paragraph three of this Law in respect of the institution or financial company if the relevant capital instruments or the eligible liabilities referred to in Section 77, Paragraph 1.2 of this Law that have been issued or attracted thereby conform to the fulfilment of the requirements referred to in Section 61, Paragraphs one, two, three, four, and five of this Law and if the authorisation (licence) has been issued to such institution or financial company in accordance with the Credit Institution Law or the Law on Investment Firms.

(2) The Financial and Capital Market Commission shall be responsible for making the determination referred to in Section 77, Paragraph three, Clause 2 of this Law in respect of the institution or financial company which is a subsidiary if the relevant capital instruments issued or attracted thereby are recognised for the purposes of meeting own funds requirements on an individual and consolidated basis and if the authorisation (licence) has been issued to such institution or financial company in accordance with the Credit Institution Law or the Law on Investment Firms.

(3) The Financial and Capital Market Commission if it is a consolidating supervisor shall take all the measures within its competence in order to make the determination referred to in Section 77, Paragraph three, Clause 3 of this Law together with the authority of the Member State which is responsible for the determination referred to in Section 77, Paragraph three of this Law in the form of the joint decision in conformity with Section 112, Paragraph four of this Law in respect of the institution or financial company which is a subsidiary of the abovementioned Member State if the relevant capital instruments issued or attracted by such institution or financial company conform for the purposes of meeting own funds requirements on an individual and consolidated basis and if the authorisation (licence) has been issued to such institution or financial company in accordance with the legal acts of the relevant Member State.

(4) The Financial and Capital Market Commission shall implement all the measures within its competence in order to make the determination referred to in Section 77, Paragraph three, Clause 3 of this Law together with the authority of the Member State which in accordance with its legal acts is responsible for making the determination equivalent to the determination referred to in Section 77, Paragraph three of this Law in the Member State in which the consolidating supervisor is located, in the form of the joint decision in conformity with Section 113 of this Law in respect of the institution or financial company which is a subsidiary of the abovementioned Member State if the relevant capital instruments issued or attracted by such institution or financial company conform for the purposes of meeting own funds requirements on an individual and consolidated basis and if the authorisation (licence) has been issued to such institution or financial company in accordance with the Credit Institution Law or the Law on Investment Firms.

(5) The Financial and Capital Market Commission if it is the consolidating supervisor shall be responsible for making the determination referred to in Section 77, Paragraph three, Clause 4 of this Law.

[*30 September 2021; 28 April 2022* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraphs 4 and 13 of Transitional Provisions*]

**Section 80.** (1) Prior to making the finding referred to in Section 77, Paragraph three, Clause 2, 3, 4, or 5 of this Law in respect of a subsidiary that issues or attracts the relevant capital instruments or the eligible liabilities referred to in Section 77, Paragraph 1.2 of this Law which conform to the fulfilment of the requirements for own funds individually on a consolidated basis, the Financial and Capital Market Commission shall fulfil the following requirements:

1) if the Financial and Capital Market Commission considers whether to make the finding referred to in Section 77, Paragraph three, Clause 2, 3, 4, or 5 of this Law, it shall, after consulting the resolution authority of the relevant resolution entity, notify the following within 24 hours:

a) the consolidating supervisor of a Member State and, if it is not the same, the authority of the respective Member State which is responsible for making the finding specified in Section 77, Paragraph three of this Law;

b) the resolution authorities of other entities within the same resolution group which have directly or indirectly purchased the liabilities referred to in Section 61, Paragraph six of this Law from the entity to which Section 61, Paragraphs one, two, three, four, and five of this Law apply;

2) if the Financial and Capital Market Commission considers whether to make the finding referred to in Section 77, Paragraph three, Clause 3 of this Law, it shall immediately notify the supervisor of a Member State thereof which performs supervision of each such institution or financial company that has issued or attracted the relevant capital instruments to which the write-down or conversion power could be applicable, and, if it is not the same, the authority of the respective Member State which is responsible for making the finding specified in Section 77, Paragraph three of this Law.

(2) If the determination referred to in Section 77, Paragraph three, Clause 3, 4, or 5 of this Law is made in respect of the institution or group which implements cross-border activity, the Financial and Capital Market Commission shall take into account the possible impact of the resolution activity on all Member States in which the institution or group operates.

(3) The Financial and Capital Market Commission shall, in accordance with Paragraph one of this Section, append to a notification an explanation of the reasons why it is considering making of the relevant determination.

(4) If a notification has been made in accordance with Paragraph one of this Section, the Financial and Capital Market Commission shall, after consulting the responsible authorities which it has notified accordingly in accordance with Paragraph one, Clause 1, Sub-clause “a” or Clause 2 of this Section, assess the following matters:

1) whether an alternative measure to the implementation of the write-down or conversion power in accordance with the requirements of Section 77, Paragraph three of this Law is available;

2) if such an alternative measure is available – whether it can feasibly be applied;

3) if such an alternative measure could feasibly be applied – whether there is a realistic prospect that it would address, in an adequate time period, the circumstances that would otherwise require the determination referred to in Section 77, Paragraph three of this Law to be made.

(5) Within the meaning of Paragraph four of this Section, alternative measures are the early intervention measures referred to in Section 33 of this Law, and also the measures referred to in Section 101.3, Paragraphs 4.4 and 4.7 of the Credit Institution Law and Section 45, Paragraph one of the Law on Investment Firms or the transfer of funds or capital to the institution or financial company from the parent company.

(6) If, in accordance with Paragraph four of this Section, the Financial and Capital Market Commission assesses, after consulting the responsible authorities which it has notified accordingly, that one or more alternative measures are available, that they can feasibly be applied, and they would deliver the outcome referred to in Paragraph four, Clause 3 of this Section, it shall ensure that those measures are applied.

(7) If, in the case referred to in Paragraph one, Clause 1 of this Section and in accordance with Paragraph four of this Section, the Financial and Capital Market Commission, after consulting the responsible authorities, concludes that no alternative measures are available which would deliver the outcome referred to in Paragraph four, Clause 3 of this Section, the Financial and Capital Market Commission shall assess whether it is necessary to make the determination referred to in Section 77, Paragraph three of this Law.

(8) If the Financial and Capital Market Commission decides to make the determination referred to in Section 77, Paragraph three, Clause 3 of this Law, it shall immediately notify thereof the authorities of the Member States responsible for making the determination referred to in Section 77, Paragraph three of this Law in which the relevant subsidiaries are located, and the determination shall be made in the form of the joint decision in conformity with Section 112, Paragraph four of this Law.

(9) If the authority of another Member State which is responsible for the determination indicated in Section 77, Paragraph three of this Law decides to make the determination referred to in Section 77, Paragraph three, Clause 3 of this Law and notifies the Financial and Capital Market Commission thereof because the relevant subsidiary is located in the Republic of Latvia, the Financial and Capital Market Commission shall implement all the measures within its competence in order to make the determination in the form of the joint decision in conformity with Section 113 of this Law.

(10) The determination in accordance with Section 77, Paragraph three, Clause 3 of this Law is not made if the joint decision referred to in this Section is not taken.

(11) If the subsidiary referred to in Paragraph nine of this Section is located in the Republic of Latvia, the Financial and Capital Market Commission shall immediately execute the decision taken to write down or convert the relevant capital instruments.

[*16 February 2017; 30 September 2021; 28 April 2022* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraphs 4 and 13 of Transitional Provisions*]

**Chapter XIII**

**Additional Financial Stabilisation Tools**

**Section 81.** (1) In order to achieve the resolution objectives and to prevent insolvency of the institution or financial company, the Cabinet is entitled, upon previous consultation with the Financial and Capital Market Commission, to decide on the application of additional financial stabilisation tools, if the following conditions are complied with:

1) shareholders or persons who own other instruments of ownership, or holders of the relevant capital instruments and bail-inable liabilities have covered losses as a result of application of the bail-in tool in the amount of at least 8 per cent of the total liabilities (including own funds) of the institution under resolution the amount of which has been determined during the resolution action in accordance with the valuation provided for in Chapter VIII of this Law.

2) all the conditions necessary for the performance of the resolution action laid down in Section 39, Paragraph one of this Law have been fulfilled, however, application of resolution tools would not be sufficient in order to prevent significant negative impact on the financial stability and activity of the institution or financial company.

(2) When applying additional financial stabilisation tools, the State aid is provided. Before provision of the State aid, it is necessary to receive the decision of the European Commission on compatibility of the State aid with the internal market of the European Union.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 82.** Additional financial stabilisation tools are as follows:

1) public capital aid tool;

2) temporary public property tool.

**Section 83.** (1) When applying the public capital aid tool, the Financial and Capital Market Commission is entitled to implement recapitalisation of the institution or financial company, ensuring capital for it in exchange for the following tools:

1) Common Equity Tier 1 instruments;

2) Additional Tier 1 instruments or Tier 2 instruments.

(2) Upon applying the public capital aid tool, the shares owned by the State in the institution or financial company are alienated, without exceeding the time period which is specified in the decision of the European Commission on compatibility of the State aid with the internal market of the European Union.

**Section 84.** (1) When applying the temporary public property tool, the institution or financial company may be temporarily taken over into ownership by the State by transferring it under management of the capital company selected by the Cabinet in which the State has a decisive influence.

(2) The institution or financial company to which the temporary public property tool has been applied is alienated, without exceeding the time period specified in the decision of the European Commission on compatibility of the State aid with the internal market of the European Union.

**Chapter XIV**

**Resolution Powers**

**Section 85.** (1) The Financial and Capital Market Commission as the resolution authority has the following resolution powers, upon applying resolution tools:

1) to request any person related to a resolution action to provide any information necessary for the Financial and Capital Market Commission to decide upon and prepare a resolution action, including updates and supplements of the information provided in the resolution plans;

2) to take control of an institution under resolution and implement all the rights granted to the shareholders or persons who own other instruments of ownership, the supervisory board, and the executive board;

3) to transfer shares or other instruments of ownership of the institution under resolution to a purchaser or bridge institution;

4) to transfer to another commercial company, with the consent thereof, financial instruments, rights, assets, or liabilities of the institution under resolution;

5) to reduce or extinguish the principal amount of the bail-inable liabilities or the outstanding amount resulting from such liabilities of the institution under resolution;

6) to convert bail-inable liabilities of the institution under resolution into shares or other instruments of ownership in that institution, financial company, a relevant parent company, or bridge institution to which assets, rights, or liabilities of the institution or financial company are transferred;

7) to cancel debt instruments issued by the institution under resolution, except for secured liabilities in the cases specified in this Law;

8) to reduce, including to reduce to zero, the nominal amount of shares or other instruments of ownership of the institution under resolution and to cancel such shares or other instruments of ownership;

9) to request the institution under resolution or the relevant parent company to increase equity capital, including to issue new shares or other capital instruments, including preference shares and contingent convertible instruments;

10) to amend the maturity of bail-inable liabilities of the institution under resolution, amend the interest rate, amount payable for such liabilities and the payment procedures. It shall not apply to secured liabilities;

11) to close out and terminate financial contracts or derivative contracts;

12) to remove members of the supervisory board and executive board of the institution under resolution and to appoint new members.

(2) When applying the resolution tools and implementing the resolution powers, the Financial and Capital Market Commission need not comply with the requirements laid down in other laws and regulations and they are not binding on it in respect of the procedures for the transfer of financial instruments, rights, assets, or liabilities, including the necessity to receive approval of the shareholders or those persons who own other instruments of ownership, and also that of the creditors or third parties, and the requirement for prior informing of the third party. The abovementioned exemption shall not apply to the requirements which are determined by the legal framework of State aid.

(3) If the powers referred to in Paragraph one of this Section are not applicable to the institution or financial company due to its legal form, the Financial and Capital Market Commission shall apply equal powers to such institutions or companies and the safeguards provided for in this Law – to the shareholders or those persons who own other instruments of ownership, and also to creditors and counterparties (transaction partners).

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 86.** (1) In addition to the powers specified in Section 85 of this Law, the Financial and Capital Market Commission has the following powers:

1) to determine that the transfer is applicable free from any liability or encumbrance affecting the financial instruments, rights, assets, or liabilities transferred;

2) to remove rights to acquire further shares or other instruments of ownership;

3) to request that securities of the institution are excluded from a regulated market or trading in such securities is suspended, as specified in the Financial Instrument Market Law;

4) to ensure that the recipient of the transferred financial instruments, rights, assets, or liabilities has the rights and obligations of the institution under resolution;

5) to request that the institution under resolution and the recipient of shares or other instruments of ownership, financial instruments, rights, assets, or liabilities mutually exchange with information and provide assistance;

6) to cancel or modify the terms of such contract to which the institution under resolution is a party or to substitute the recipient of financial instruments, rights, assets, or liabilities as a party.

(2) Resolution powers shall be implemented by ensuring continuity of the contracts entered into by the institution under resolution and the liabilities thereof which are transferred to the recipient. The abovementioned shall not affect the right of employees of the institution under resolution to terminate an employment contract and other rights of the parties arising from the contracts entered into by the institution under resolution.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 87.** (1) The Financial and Capital Market Commission has the right to assign the institution under resolution or any group company of the institution under resolution to provide or ensure services that are necessary to enable the recipient of rights, assets, or liabilities to use effectively the rights transferred to it and to manage the financial instruments, assets, or liabilities. The institution under resolution shall provide or ensure services in conformity with contracts which it has entered into before performance of resolution, or, if there are no contracts or they are not valid anymore, in conformity with fair transaction practice.

(2) If the resolution authority of another Member State has exercised the right specified in Paragraph one of this Section in respect of an institution under resolution registered in another Member State or the relevant company of the group thereof which is located in the Republic of Latvia, the Financial and Capital Market Commission has the right to ensure the enforcement of the decision taken by the resolution authority of another Member State.

(3) Paragraph one of this Section shall also be applied in the insolvency proceedings of the institution under resolution or a company of the group thereof.

**Section 88.** (1) If, upon transfer of shares, other instruments of ownership, assets, rights, or liabilities, also assets that are located in another Member State or rights or liabilities to which the legal acts of another Member State are applicable are transferred, the relevant other Member State shall be regarded as the country of transfer and the legal acts of that Member State shall be applied to the transfer.

(2) The Financial and Capital Market Commission shall provide assistance to the resolution authority of another Member State in respect of the transfer of those shares or other instruments of ownership, assets, rights, or liabilities to which the laws and regulations of the Republic of Latvia are applicable.

(3) Shareholders or the persons who own other instruments of ownership, creditors and third parties which are affected by the transfer of shares or other instruments of ownership, assets, rights, or liabilities have not right to set aside the transfer.

(4) If the resolution authority of another Member State implements the write-down or conversion power to instruments or liabilities, including liabilities to creditors which are governed by the laws and regulations of the Republic of Latvia, the Financial and Capital Market Commission shall ensure that the principal amount of such bail-inable liabilities or instruments is reduced or liabilities or instruments are converted in conformity with the write-down or conversion power implemented by the resolution authority of another Member State.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 89.** (1) If the resolution action applied by the Financial and Capital Market Commission is directed towards assets or shares, or other instruments of ownership of the institution under resolution located in a foreign country, the rights or liabilities to which the laws and regulations of a foreign country are applicable, the Financial and Capital Market Commission may request that:

1) the person governing assets, shares, other instruments of ownership, liabilities of the institution under resolution and exercising the rights takes all the necessary measures to ensure that the transfer, write-down, conversion, and other resolution actions are being implemented;

2) the person governing assets, shares, other instruments of ownership, liabilities of the institution under resolution and exercising the rights has an obligation to hold the shares, other instruments of ownership, assets, or liabilities and to exercise the rights or to undertake responsibility for the liabilities until transfer, write-down, conversion, or other resolution action is implemented;

3) the person governing assets, shares, other instruments of ownership, liabilities of the institution under resolution and exercising the rights, the justified expenditures thereof for taking the actions specified in Clauses 1 and 2 of this Paragraph are covered in conformity with Section 43, Paragraph five of this Section.

(2) If the Financial and Capital Market Commission evaluates that, regardless of all the necessary measures taken by the person, it is not foreseeable that it will be possible to apply the transfer or conversion in relation to property located in a foreign country or to certain shares, other instruments of ownership, rights or liabilities in accordance with the legal acts of the foreign country, the Financial and Capital Market Commission shall not proceed with the transfer, write-down, conversion, or other resolution actions, including the cases when the Financial and Capital Market Commission has already taken the decision on transfer, write-down, conversion, or action of the relevant shares, other instruments of ownership, rights or liabilities concerned.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 90.** (1) A crisis prevention measure and a crisis management measure taken in relation to the institution or financial company in accordance with this Law, and any event directly related to the application of such measure shall not, according to a contract concluded by the institution or financial company, be deemed an enforcement event within the meaning of the Law on Close-out Netting Applicable to Qualified Financial Transactions, within the meaning of the laws and regulations governing financial security or as insolvency proceedings within the meaning of the laws and regulations governing settlement finality in payment and securities settlement systems provided that the substantive obligations according to the contract, including payment and delivery obligations, are still being performed, and also collateral is provided. The abovementioned shall also refer to the contracts entered into by the subsidiary institution of the institution or financial company or by the financial company if it is provided for therein that the liabilities are guaranteed by the parent company or financial company, or any group institution or financial company, or to the contracts entered into by other group institutions or financial companies if provisions regarding the liability of other group companies are included therein.

(2) If the Financial and Capital Market Commission has recognised foreign resolution procedures, for the purpose of application of this Section such proceedings shall be considered a crisis management measure.

(3) A crisis prevention measure, suspension of liabilities in accordance with Section 40.1 of this Law, or a crisis management measure, and also any event directly related to the application of such measure shall not constitute grounds for the following:

1) to implement any contractual termination, suspension, amendment, close-out netting, or set-off rights, including in respect of the contracts concluded by a subsidiary or financial company and the performance of which is guaranteed or in the performance which a group company participates financially;

2) to obtain in possession, to take over control of the property of the institution or financial company involved or its group company, or to request security for it;

3) to affect the rights arising from the contracts entered into by the institution or financial company if significant liabilities arising from the contracts are still being performed, including payment and payment performance obligations, and also security is also provided.

(4) The actions referred to in Paragraph three of this Section may be taken if the justification for their taking arises by virtue of an event other than the crisis prevention measure, the crisis management measure, or any event directly linked to the application of such measures.

(5) Suspension or restriction of the performance of liabilities shall not be considered non-performance of contractual obligations for the purposes of application of this Section and Section 93, Paragraph one of this Law.

[*16 February 2017; 30 September 2021; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 91.** (1) The Financial and Capital Market Commission has the right to suspend enforcement of any payment obligations according to any contract to which an institution under resolution is a party from the day when a notice of the suspension has been published until midnight of the next working day. If a payment or delivery obligation would have been due during the suspension period, the payment or delivery obligation shall be enforced immediately upon expiry of the suspension period.

(2) If payment obligations of an institution under resolution under a contract are suspended, the payment or delivery obligations of the counterparties of the institution under resolution under the abovementioned contract shall be suspended for the same period of time.

(3) The right specified in this Section shall not be applicable to the following:

1) the systems and system operators;

2) the central counterparties authorised in the European Union and the third-party central authorised counterparties recognised by the European Securities and Markets Authority;

3) the central banks.

(4) The Financial and Capital Market Commission shall take into consideration the potential impact the implementation of that right might have on the stable functioning of financial markets.

(5) In determining the scope of exercising the right referred to in this Section, the Financial and Capital Market Commission shall take into account circumstances of each specific case and assess how reasonable it is to extend suspension in order to apply it also to eligible deposits. If the power to suspend payment or delivery obligations is implemented in respect of the covered deposits, the Financial and Capital Market Commission shall ensure that depositors have partial access to a proper amount of the deposits per day.

[*16 February 2017; 28 February 2019; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 92.** (1) The Financial and Capital Market Commission has the right to restrict enforcement of the right to use security of secured creditors of an institution under resolution in relation to any assets of the institution under resolution from the day of publishing a notice of the suspension until midnight of the next working day.

(2) The Financial and Capital Market Commission is not entitled to exercise the right referred to in Paragraph one of this Section in respect of the right of collateral of payment systems operators, the central counterparties authorised in the European Union, the third-party central authorised counterparties recognised by the European Securities and Markets Authority, and the claims of the central bank of the Member State over assets pledged or provided by way of financial collateral by the institution under resolution.

(3) The Financial and Capital Market Commission shall take into consideration the potential impact the implementation of that right might have on the stable functioning of financial markets.

[*16 February 2017; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 93.** (1) The Financial and Capital Market Commission has the right to temporarily suspend the termination rights of a counterparty (transaction partner) which has entered into a contract of any type with an institution under resolution from the day of publishing a notice of the suspension until midnight of the next working day.

(2) The Financial and Capital Market Commission has the right to temporarily suspend the termination rights of such counterparty (transaction partner) which has entered into a contract of any type with a subsidiary of an institution under resolution if:

1) the institution under resolution has issued a guarantee for the performance of the liabilities of the subsidiary specified in the contract;

2) the grounds for termination of the contract are solely the initiation of a case of insolvency proceedings or the financial condition of the institution under resolution;

3) the Financial and Capital Market Commission has taken the decision or may take the decision in respect of the institution under resolution to transfer its assets and liabilities to an acquirer, it shall either provide for in the contract the transfer of all the assets and liabilities of the subsidiary and the acquirer has accepted them, or ensure adequate protection for such assets and liabilities in any other way.

(3) The rights specified in Paragraph two of this Section may be implemented from the day of publishing the notice until midnight of the next working day.

(4) Temporary suspension in accordance with Paragraphs one and two of this Section shall not be applied to the payment and securities systems or system operators, the central counterparties authorised in the European Union, the third-party central authorised counterparties recognised by the European Securities and Markets Authority, and the central banks of the Member States.

(5) If the Financial and Capital Market Commission notifies that the rights and liabilities arising from the contract have not been transferred to an acquirer or they are subject to write-down or conversion upon the application of the bail-in tool, the person has the right to implement the termination rights specified in the contract before the end of the time period of suspension referred to in this Section.

(6) If the Financial and Capital Market Commission has suspended the termination rights and has not given the notice specified in Paragraph five of this Section upon setting in of the period when suspension expires, the termination rights may be implemented as follows:

1) if the rights and liabilities arising from the contract have been transferred to an acquirer, a counterparty (transaction partner) may use the termination rights according to the provisions of the relevant contract if the grounds for the termination of the contract arise from the action of the acquirer;

2) if the rights and liabilities arising from the contract remain with the institution under resolution and the Financial and Capital Market Commission has not applied the bail-in tool to them, a counterparty (transaction partner) may implement the termination rights according to the terms of the relevant contract.

(7) The Financial and Capital Market Commission shall take into consideration the potential impact the implementation of that right might have on the stable functioning of financial markets.

(8) [30 September 2021]

[*16 February 2017; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 93.1** (1) The Financial and Capital Market Commission is entitled to request the institution or financial company to maintain detailed records of financial contracts. The Financial and Capital Market Commission is entitled to request the Latvian Central Depositary to provide it with the information necessary for the application of the right referred to in this Section in accordance with Article 81 of Regulation No 648/2012.

(2) When concluding new financial contracts or making substantial amendments to the provisions of the financial contracts already concluded the legal provisions of which arise from foreign laws and regulations, the institution or financial company shall include therein the provisions under which a contracting party acknowledges that the right of the Financial and Capital Market Commission to suspend or restrict rights and obligations in accordance with Sections 40.1, 91, 92, and 93 of this Law may apply to a financial contract and acknowledges that the crisis prevention measure and the crisis management measure taken by the Financial and Capital Market Commission in accordance with this Law shall be binding upon it.

(3) When concluding financial contracts in accordance with Paragraph two of this Section, a European Union parent company shall ensure that financial contracts of their foreign subsidiary concluded with counterparties contain a relevant provision in order to rule out that exercising the right of the Financial and Capital Market Commission in respect of suspension or restriction of rights and obligations of the European Union parent company is deemed an appropriate basis for exercising early termination, suspension, amendment, netting, or set-off rights or for exercising security rights in relation to the concluded contracts.

(4) The requirement laid down in Paragraph three of this Section shall apply to foreign subsidiaries that are institutions or financial companies.

(5) If an institution or financial company was obliged to ensure the fulfilment of the requirements laid down in Paragraph two of this Section but it has not been done, the Financial and Capital Market Commission is entitled suspend or restrict rights and obligations of the institution or financial company in accordance with Sections 40.1, 90, 91, 92, and 93 of this Law.

[*30 September 2021; 28 April 2022* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraphs 4 and 13 of Transitional Provisions*]

**Section 94.** In order to carry out a resolution action, the Financial and Capital Market Commission is entitled, by appointing an authorised person, to take over the institution under resolution in its control so as to manage the institution under resolution by all powers of the meeting of shareholders, supervisor board, and executive board of the institution under resolution, to perform its activity and provide its services, and also to manage and act with assets and property of the institution under resolution. While the authorised person is appointed, shareholders of the institution under resolution or those persons who own other instruments of ownership have no voting rights arising from the shares or other instruments of ownership of the institution under resolution.

**Chapter XV**

**Safeguards**

**Section 95.** (1) When applying one or more resolution actions, except for the instrument referred to in Paragraph two of this Section, shareholders, those persons who own other instruments of ownership, and those creditors whose claims have not been transferred, receive in satisfaction of their claims at least as much as what they would have received if insolvency would have been applied to the institution under resolution immediately before transfer.

(2) If the Financial and Capital Market Commission applies the bail-in tool, the application of the bail-in tool shall not incur greater losses to shareholders, the persons who own other instruments of ownership, and those creditors whose claims have been written down or converted into equity than they would have incurred if insolvency procedure would have been applied to the institution under resolution immediately before write-down or conversion.

[*16 February 2017*]

**Section 96.** (1) In order to evaluate whether more favourable conditions would have been applied to shareholders, the persons who own other instruments of ownership, and creditors if insolvency was commenced instead of performance of the resolution action, a valuation shall be carried out by a valuer immediately after the resolution action in which the following shall be determined:

1) the conditions that would be appropriate for shareholders, those persons who own other instruments of ownership, and creditors if the institution under resolution with respect to which the resolution action has been performed had commenced insolvency proceedings at the time when, in accordance with this Law, the decision to apply the resolution action was taken;

2) the conditions that actually are implemented in respect of shareholders, those persons who own other instruments of ownership, and creditors in the resolution of the institution under resolution;

3) whether there is any difference between the consequences of application of the conditions referred to in Clauses 1 and 2 of this Section.

(2) During valuation a valuer shall take into account the assumption that the institution under resolution would have commenced insolvency proceedings at the time when, in accordance with this Law, the decision to apply the resolution action was taken and that the resolution action had not been performed.

**Section 97.** If in the evaluation on whether more favourable conditions would be applied to shareholders, persons who own other instruments of ownership, and creditors if insolvency procedure would have been commenced, it is detected that any shareholder, the person who owns other instruments or ownership, creditor, or deposit guarantee scheme has incurred greater losses than it would have incurred in the case of commencement of insolvency, they have the right to the disbursement of the consideration from the resolution fund.

**Section 98.** (1) If the Financial and Capital Market Commission itself or from a bridge institution, or by using a resolution tool, transfers to another company a part of an asset management company but not all assets, rights, or liabilities of an institution under resolution or if the Financial and Capital Market Commission revokes or amends the provisions of a contract to which the institution under resolution is a party, or acts on behalf of it, the Financial and Capital Market Commission shall ensure the protection measures specified in this Law and apply the restrictions of Sections 90, 91, 92, and 93 of this Law to the following types of arrangements:

1) security under which a counterparty (transaction parter) has an actual or contingent interest in the assets or rights that are subject to transfer, irrespective of whether that interest is secured by specific assets or rights or by way of interest payments or similar condition;

2) title transfer financial collateral arrangements according to which collateral to secure or cover the performance of specified obligations is provided by a transfer of full ownership of assets from the collateral provider to the collateral taker, moreover,the collateral taker has an obligation to transfer assets if the obligations referred to in the arrangement are performed;

3) set-off contracts;

4) close-out netting contracts;

5) covered bonds;

6) structured finance arrangements which are used for hedging purposes which form an integral part of the cover pool and which, in accordance with the laws and regulations on respect of financial instruments, are secured in a way similar to the covered bonds. These arrangements shall include that the security is granted and maintained by a counterparty (transaction party) or an authorised person.

(2) The protection specified in Paragraph one of this Section shall be applied irrespective of the number of parties involved in the arrangements and of whether:

1) agreement is concluded in the form of a contract, trust, or other legal form, if laws and regulations provide for the possibility of such agreement;

2) agreement is governed in whole or in part by the laws and regulations of other Member States or a third country and the laws and regulations of other Member States or a third country allow to conclude such agreement.

[*16 February 2017; 30 September 2021; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 99.** (1) When transferring title transfer financial collateral arrangements, set-off and close-out netting contracts, the Financial and Capital Market Commission shall ensure that all of the rights and obligations that are protected under the respective arrangements and contracts concluded between the institution under resolution and other persons are transferred, and also amendment or termination of rights and obligations that are protected under the respective arrangements and contracts is not performed by exercising the resolution powers specified in this Law for the Financial and Capital Market Commission.

(2) The rights and obligations shall be considered as protected if the counterparties are entitled to perform set-off or close-out netting of such rights and obligations.

(3) In addition to that specified in Paragraph one of this Section, where necessary in order to ensure availability of the covered deposits the Financial and Capital Market Commission may:

1) transfer the covered deposits which are part of the subject-matter of the arrangements referred to in Paragraph one of this Section, without transferring other assets, rights, or liabilities that are the subject-matter of the same arrangement;

2) transfer, modify, or sell those assets, rights, or liabilities, without transferring the covered deposits.

[*30 September 2021; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 100.** (1) When performing the activities referred to in Section 98 of this Law, the Financial and Capital Market Commission shall not:

1) shall transfer such assets against which liabilities are secured unless the abovementioned liabilities and benefit of the security are also transferred;

2) shall not transfer a secured liability unless the benefit of the security is also transferred;

3) shall not transfer the benefit of the security unless the secured liability is also transferred;

4) shall not modify or terminate security arrangements, if the effect of that modification or termination is that the liability ceases to be secured.

(2) In addition to that specified in Paragraph one of this Section, where necessary in order to ensure availability of the covered deposits the Financial and Capital Market Commission may:

1) transfer the covered deposits which are part of the subject-matter of the arrangements referred to in Paragraph one of this Section, without transferring other assets, rights, or liabilities that are the subject-matter of the same arrangement;

2) transfer or otherwise alienate those assets, rights, or liabilities, and also modify rights or liabilities, without transferring the covered deposits.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 101.** (1) When transferring structured finance arrangements, the Financial and Capital Market Commission:

1) transfer all of the assets, rights, and liabilities which are part of the subject-matter of the structured finance arrangement, including the arrangements referred to in Section 98, Paragraph one, Clauses 5 and 6 of this Law, to which the institution under resolution is a party;

2) shall not terminate or modify the arrangements to which the institution under resolution is a party.

(2) In exceptional cases, where necessary in order to ensure availability of the covered deposits the Financial and Capital Market Commission may:

1) transfer the covered deposits which are part of the subject-matter of the arrangements referred to in Paragraph one of this Section, without transferring other assets, rights, or liabilities that are the subject-matter of the same arrangement;

2) transfer or otherwise alienate those assets, rights, or liabilities, and also modify rights or liabilities, without transferring the covered deposits.

[*16 February 2017; 30 September 2021*]

**Section 102.** (1) The application of a resolution tool shall not affect the operation of payment and securities settlement systems if the Financial and Capital Market Commission:

1) transfers some but not all of the assets, rights, or liabilities of the institution under resolution to another commercial company;

2) uses the rights intended for it to cancel or amend the terms of such contract to which the institution under resolution is a party or to substitute a recipient as a party.

(2) The actions referred to in Paragraph one of this Section shall not affect the enforceability of transfer orders and netting, the use of funds, securities, or credit, and also protection of security.

(3) Upon applying the requirements of this Section, the Financial and Capital Market Commission shall ensure that the restrictions specified in Section 92 of this Law are determined for all group companies in respect of which a resolution action is taken.

**Chapter XVI**

**Information Provision Obligation and Restricted Access Information**

**Section 103.** (1) The executive board of the institution or financial company shall inform the Financial and Capital Market Commission if the former considers that the institution or the financial company is in financial difficulties or is likely to be in financial difficulties.

(2) If the Financial and Capital Market Commission establishes that the institution or financial company meets the conditions referred to in Section 39, Paragraph three of this Law, the Financial and Capital Market Commission shall immediately communicate it to the following:

1) the resolution and supervisory authorities of the institution or financial company or branches of the institution or financial company;

2) Latvijas Banka;

3) the group-level resolution authority;

4) the Ministry of Finance;

5) the consolidating supervisor if consolidated supervision is carried out for the institution or financial company;

6) the European Systemic Risk Board.

**Section 104.** (1) After the decision to apply a resolution action has been taken (hereinafter – the resolution decision), the Financial and Capital Market Commission shall send a notice of the abovementioned decision to:

1) the supervisory authorities of the institution under resolution and the branches thereof;

2) Latvijas Banka;

3) the group-level resolution authority;

4) the Ministry of Finance;

5) the consolidating supervisor if consolidated supervision is carried out for the institution under resolution;

6) the European Systemic Risk Board;

7) the European Commission, the European Central Bank, the European Securities and Markets Authority, and the European Banking Authority;

8) the system operators specified in the law On Settlement Finality in Payment and Financial Instrument Settlement Systems.

(2) The Financial and Capital Market Commission shall publish on its website the information on the resolution decisions taken and send it to the European Banking Authority for the publication on the website of the European Banking Authority. The Financial and Capital Market Commission shall send the abovementioned information to the official mandatory information storage system within the meaning of the Financial Instrument Market Law if the shares, other instruments of ownership, or debt instruments of the institution under resolution are admitted to trading on a regulated market, or to the shareholders and known creditors of the institution under resolution if the shares, instruments of ownership, or debt instruments are not admitted to trading on a regulated market.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 105.** (1) The information related to the recovery plans, resolution plans, assessment results, resolution, resolution actions, including application of resolution procedures and resolution instruments which is provided or received by the following shall be considered restricted access information:

1) the Financial and Capital Market Commission;

2) the Ministry of Finance;

3) special managers or authorised persons appointed in accordance with the law;

4) recipients or potential recipients of the assets, liabilities, rights, shares, or other instruments of ownership of the institution under resolution;

5) sworn auditors, advisors, valuers, and other experts who directly or indirectly have cooperated with the Financial and Capital Market Commission;

6) Latvijas Banka;

7) other institutions of direct or indirect administration involved in the resolution process;

8) a bridge institution or an asset management company;

9) persons who provide or have provided services to the persons referred to in this Section and also members of the supervisory board and executive board of legal persons or employees who have received the information for the performance of their office or professional duties.

(2) Restricted access information shall not be disclosed to other persons unless in summary or collective form so that an individual institution or financial company cannot be identified, except for the cases when such information may be disclosed in accordance with the law.

(3) When classifying information as restricted access information, the consequences that disclosing of such information might cause to the public interests as regards financial, monetary, and economic policy and to the interests of commercial activity of natural and legal persons are valuated, and also the necessity and purpose of the performance of inspections and audits, especially the consequences caused by disclosing the results of recovery plans, resolution plans, and assessment shall be assessed.

(4) The Financial and Capital Market Commission, the Ministry of Finance, other institutions of direct and indirect administration involved in resolution and resolution action, Latvijas Banka, bridge institution, or asset management company shall include the prohibition to disclose restricted access information in internal regulatory enactments and ensure that only persons who are directly involved in the resolution process have access to such information. The abovementioned legal subjects shall also ensure that the relevant persons are informed of the prohibition to disclose restricted access information.

(5) The persons referred to in Paragraph one of this Section, in accordance with laws and regulations, shall be punishable for disclosing the restricted access information (confidential information) specified in Paragraph one of this Section.

(6) The provisions of Paragraph one of this Section shall not restrict employees or former employees of the institutions or legal persons referred to therein from mutually exchanging information within the scope of these institutions, and also the Financial and Capital Market Commission, according to its competence, from exchanging restricted access information with resolution authorities, competent ministries, central banks, deposit guarantee schemes of other Member States, State institutions responsible for insolvency proceedings in the relevant Member State, the European Banking Authority, or relevant foreign institutions which are responsible for the implementation of resolution in the relevant foreign country.

[*16 February 2017; 30 September 2021; 28 April 2022* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraphs 4 and 13 of Transitional Provisions*]

**Chapter XVII**

**Cross-border Group Resolution**

**Section 106.** Upon making decisions in accordance with this Law or taking actions and measures which may have an impact in one or more other Member States, the Financial and Capital Market Commission shall comply with the following general requirements and principles:

1) the efficacy of decision-making and reduction of resolution costs;

2) action is taken in a timely manner and with due urgency when required;

3) mutual cooperation to ensure that decisions are taken and measures are taken in a coordinated and efficient manner;

4) the roles and responsibilities of resolution authorities within each Member State are defined clearly;

5) due consideration is given to the interests of such Member States where the parent companies of the Member State and subsidiaries of the Member State are performing commercial activity, and in particular the impact of any decision, action, or inaction on the financial stability, fiscal resources, resolution fund, deposit guarantee scheme, or investor protection system of the abovementioned Member States;

6) due consideration is given to the interests of those Member States where significant branches are performing commercial activity, in particular the impact of any decision, action, or inaction on the financial stability of the abovementioned Member States;

7) due consideration is given to the objectives of balancing the interests of the various Member States involved and of avoiding non-conformity with or protection of the interests of Member States;

8) the obligation, in accordance with this Law, to consult a resolution or supervisory authority before any decision or measure is taken or measure is implemented includes at least an obligation to consult on those elements of the proposed decision or measure which have or which are likely to have an effect on the parent company, the subsidiary, or branch of the Member State, and on those elements of the proposed decision or measure which have or which are likely to have an impact on the financial stability of the Member State where the parent company, subsidiary, or branch of the Member State is performing commercial activity or is registered;

9) upon taking resolution actions, take into account and follow the resolution plans, unless, taking into account the circumstances of the case, it is considered that the resolution objectives will be achieved more effectively by taking actions which are not provided for in the resolution plans;

10) assess the possible implication of a proposed decision or measure on the financial stability, fiscal resources, resolution fund, deposit guarantee scheme, or investor compensation scheme of the relevant Member State;

11) understanding that the best reduction of overall costs of resolution may be achieved upon mutual cooperation and coordinating an action by the resolution and supervisory authorities.

[*16 February 2017*]

**Section 107.** (1) If the Financial and Capital Market Commission is a group-level resolution authority, it shall establish a resolution college which implements the rights referred to in this Law to determine the minimum requirements for own funds and eligible liabilities, and also cooperation and coordination with resolution authorities of foreign countries. The Financial and Capital Market Commission has no obligation to establish a resolution college if a group or college which is performing the same functions, is carrying out the same tasks, and complies with all the requirements laid down in this Law for a resolution college has already been established.

(2) A resolution college and, where appropriate, involved supervisory authorities shall perform the following functions:

1) exchange information which is related to the drawing-up, preparation of group resolution plans, the application to groups of preventative rights, and group resolution;

2) develop a group resolution plan;

3) assess the resolvability of a group;

4) take measures to remove impediments to the resolvability of a group;

5) decide on the need to establish a group resolution plan and agree on the application of the abovementioned resolution plan;

6) coordinate public informing of a group resolution strategy and plans;

7) coordinate the use of the financing arrangements necessary for the group resolution;

8) lay down the minimum requirement for own funds and eligible liabilities for the group on a consolidated basis at the level of subsidiaries;

9) discuss other issues in relation to a group resolution.

(3) The composition of the resolution college shall include:

1) the group-level resolution authority;

2) the resolution authorities in each Member State in which a subsidiary covered by consolidated supervision is performing commercial activity;

3) the resolution authorities in Member States where a parent company of one or more companies of the group which is the company referred to in Section 2, Paragraph two, Clause 4 of this Law are performing commercial activity;

4) the resolution authorities in the territory of the country of which significant branches are located;

5) the consolidating supervisor and the supervisory authorities of the Member States where the resolution authority is a member of the resolution college, and also the central banks of the Member States – upon invitation of the supervisory authorities;

6) the competent ministries;

7) the authorities which are responsible for the deposit guarantee scheme in Member States where the resolution authorities are members of a resolution college;

8) the European Banking Authority (without voting rights in decision-making within the scope of activity of a resolution college);

9) the resolution authorities of such foreign countries where a parent company or an institution performing commercial activity in the Member States has a subsidiary or a significant branch if the group-level resolution authority has recognised that requirements for non-disclosure of information equivalent to the requirements of this Law have been laid down for them.

(4) If the Financial and Capital Market Commission is the group-level resolution authority, it shall be the chair of the resolution college and it has the following rights:

1) to bring forward written provisions and procedures for the operation of the resolution college after prior consultation with other resolution authorities;

2) to coordinate all activities of the resolution college;

3) to convene and chair the meetings of the resolution college, and also inform all members of the resolution college of the time, place of a meeting and the issues to be discussed;

4) to decide which persons shall be invited to attend a meeting of the resolution college, taking into account that the issue to be discussed is significant for the members of this college and invited persons, in particular its potential impact on financial stability in the relevant Member States;

5) to inform all of the members of the college of the decisions and outcomes of the meetings referred to in Clause 3 of this Paragraph.

(5) If the Financial and Capital Market Commission is in the composition of such resolution college the group-level resolution authority of which is a resolution authority of another Member State, the Financial and Capital Market Commission shall participate in the work of the resolution college to such extent that is determined by the group-level resolution authority. The Financial and Capital Market Commission is entitled to participate in meetings of a resolution college if the matters to be discussed in the agenda apply to taking of the joint decision or a group company located in the Republic of Latvia.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 108.** (1) If a foreign institution or foreign parent company has subsidiaries or significant branches which are performing their commercial activity in the Republic of Latvia and in one more or several Member States, the Financial and Capital Market Commission and resolution authorities of the involved Member States shall establish a European resolution college which is chaired by a member of the European resolution college selected upon agreement.

(2) The European resolution college shall perform the functions of a resolution college specified in this Law in respect of the subsidiaries and significant branches insofar as it is applicable to them. Tasks of the resolution college shall also include laying down of the minimum requirement for own funds and eligible liabilities on a consolidated basis at the level of subsidiaries. In laying down the minimum requirement for own funds and eligible liabilities, members of the European resolution college shall take into account the general resolution strategy approved by the foreign authority. If members of the European resolution college agree with the general resolution strategy of the foreign authority in accordance with which subsidiaries that perform commercial activity in the European Union or a European Union parent company and subsidiaries thereof are not resolution entities, the subsidiaries that perform commercial activity in the European Union or a European Union parent company shall, in a consolidated manner, ensure that the conditions referred to in Section 62 of this Law are met by issuing the instruments referred to in Section 61, Paragraph six, Clauses 1 and 2 of this Law to its parent company that performs commercial activity in a foreign country, or subsidiaries of the respective parent company that perform commercial activity in the same foreign country, or to other entities in accordance with the conditions provided for in Section 61, Paragraph six, Clause 1, Sub-clause “a” and Clause 2, Sub-clause “b” of this Law.

(3) If the subsidiaries or significant branches referred to in Paragraph one of this Section belong to a European Union parent company, the European resolution college shall be chaired by the resolution authority of a Member State in which the European Union parent company performs its commercial activity. If it is impossible for the resolution authority of a Member State in which the European Union parent company performs its commercial activity to chair the European resolution college, the European resolution college shall be chaired by a resolution authority of a European Union parent company or of a European Union subsidiary with the highest value of the total balance sheet assets held.

(4) The European resolution college need not be established if another group or college performing the functions specified in this Law for a resolution college has been already established.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 109.** (1) The Financial and Capital Market Commission shall, upon request, provide the information to resolution authorities and supervisory authorities of other Member States requested thereby which is necessary for the performance of a resolution action, and the Financial and Capital Market Commission has the right to request the information from resolution authorities and supervisory authorities of other Member States which is necessary for the performance of a resolution action.

(2) If the Financial and Capital Market Commission is the group-level resolution authority, it shall send all significant information to the involved resolution authorities of the Member State.

(3) The Financial and Capital Market Commission is entitled to provide the information provided by a resolution authority of a foreign country to resolution authorities and supervisory authorities of other Member States only upon receipt of the consent of the resolution authority of the foreign country.

(4) The Financial and Capital Market Commission shall provide information to the Ministry of Finance in matters regarding which the Financial and Capital Market Commission has an obligation to notify, consult with, or receive the consent of the Ministry of Finance in accordance with this Law or which may have implications on the State budget funds.

**Section 110.** (1) If the Financial and Capital Market Commission decides that early intervention measures are applicable to the institution or financial company registered in the Republic of Latvia which is a subsidiary in a group, it shall immediately notify the group-level resolution authority, the consolidating supervisor, and other members of the resolution college for the group thereof, and also communicate a resolution action or inform of the necessity to commence insolvency proceedings.

(2) The group-level resolution authority, after consulting other members of the resolution college, shall detect whether the conformity with the resolution conditions of the company belonging to the group located in another Member State could be ensured in conformity with the information received in Paragraph one of this Section. If such conformity is not established, the Financial and Capital Market Commission may take a resolution action or commence insolvency proceedings regarding which it has notified.

(3) If the group-level resolution authority, after consulting with other members of the resolution college, establishes that resolution actions or other measures of which the Financial and Capital Market Commission has notified would ensure that the company belonging to the group located in another Member State conforms to the resolution conditions, the group-level resolution authority shall, not later than 24 hours after receipt of the notification of the Financial and Capital Market Commission, propose a group resolution plan and submit it to the resolution college. That 24-hour period may be extended if the Financial and Capital Market Commission agrees to it.

(4) If, within 24 hours or a longer time period on which an agreement has been reached, after receipt of the notification of the Financial and Capital Market Commission, the group-level resolution authority has not made an evaluation, the Financial and Capital Market Commission may take a resolution action or other measures of which it has notified.

(5) Upon applying a group resolution plan:

1) the resolution plan drawn up previously shall be taken into account and implemented, unless resolution authorities, taking into account the actual circumstances, are of the opinion that resolution objectives will be achieved more effectively by taking actions which are not provided for in the resolution plan drawn up previously;

2) the resolution actions that should be taken by the resolution authorities in relation to the parent company of the Member State or individual group companies shall be listed in order to implement the resolution objectives;

3) it shall be determined how those resolution actions should be coordinated;

4) a financing plan which takes into account the group resolution plan and the division of responsibility shall be included.

(6) The group resolution plan shall adopted by the joint decision of the group-level resolution authority and such resolution authorities responsible for the subsidiaries which are covered by the group resolution plan.

(7) If the Financial and Capital Market Commission disagrees with the group resolution plan proposed by the group-level resolution authority or departs from it, or considers that due to financial stability considerations it is necessary to take independent resolution actions or measures other than those specified in the proposed plan in relation to the institution or financial company registered in the Republic of Latvia, it shall set out in detail the reasons for the disagreement with the group resolution plan or the reasons to depart from the group resolution plan, notify the group-level resolution authority and the other resolution authorities that are covered by the group resolution plan of the reasons and inform them of the actions or measures it will take. In the decision on disagreement to the group resolution plan the Financial and Capital Market Commission shall assess the resolution plan developed previously, the potential impact on financial stability in the involved Member States, and also the potential effect of the actions or measures on other companies of the group.

[*16 February 2017*]

**Section 111.** (1) If the Financial and Capital Market Commission as the group-level resolution authority receives a notification of the resolution authority of the group subsidiaries that this company meets the conditions for resolution, it shall, within 24 hours from the moment of receipt of the notification, having consulted with other members of the resolution college, evaluate whether the resolution action referred to in the notification of the resolution authority of the group subsidiaries or the recognised necessity to commence insolvency proceedings promotes conformity of the group company located in another Member State with the conditions for resolution, take the group resolution plan, and submit it to the resolution college. The Financial and Capital Market Commission may extend the time period for the evaluation upon consent of the resolution authority which has submitted the notification.

(2) The group resolution plan shall adopted by the joint decision of the Financial and Capital Market Commission and such resolution authorities responsible for the subsidiaries which are covered by the group resolution plan. If any of the resolution authorities of the group subsidiaries take an individual decision on the subsidiary located within the territory thereof, the Financial and Capital Market Commission shall take the joint decision with such resolution authorities of the group subsidiaries which agree to the group resolution plan proposed by the Financial and Capital Market Commission.

**Section 112.** (1) If the Financial and Capital Market Commission as a group-level resolution authority decides that a parent company of the Member State for which it is responsible meets the conditions laid down in this Law for taking a resolution action, it shall immediately notify the consolidating supervisor and other members of the resolution college of the group, and also communicate the resolution action which it considers to be appropriate, or the necessity to commence insolvency proceedings.

(2) A resolution action or the necessity to commence insolvency proceedings may include the implementation of a group resolution plan if:

1) the resolution actions or other measures at the level of a parent company notified by the Financial and Capital Market Commission promote that the resolution conditions are fulfilled by a group company in another Member State;

2) resolution actions or other measures at the level of a parent company only are not sufficient to stabilise the financial situation or they will not provide an optimum outcome;

3) one or more subsidiaries meet the resolution conditions according to the evaluation of their resolution authorities;

4) resolution actions or other measures at the group level will benefit the subsidiaries of the group.

(3) If the resolution actions notified by the Financial and Capital Market Commission do not include the implementation of a group resolution plan, the Financial and Capital Market Commission shall, upon taking its decision after consulting the members of the resolution college, take into account the group resolution plan drawn up previously, unless the resolution authorities assess, taking into account actual circumstances, and also financial stability of the involved Member States that resolution objectives will be achieved more effectively by taking actions which are not provided for in the respective resolution plan.

(4) If the resolution actions notified by the Financial and Capital Market Commission include implementation of a group resolution plan, the decision on the group resolution plan shall be taken by the joint decision of the Financial and Capital Market Commission and such resolution authorities responsible for the subsidiaries which are covered by the group resolution plan. If any of the resolution authorities of the group subsidiaries take an individual decision on the subsidiary located within the territory thereof, the Financial and Capital Market Commission shall take the joint decision with such resolution authorities of the group subsidiaries which agree to the group resolution plan proposed by the Financial and Capital Market Commission.

[*16 February 2017; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 113.** (1) If the group-level resolution authority of a subsidiary registered in the Republic of Latvia notifies the Financial and Capital Market Commission of the conformity of the parent company of the Member State with the conditions for taking the resolution action laid down in this Law, the Financial and Capital Market Commission shall participate in discussing the actions notified by the group-level resolution authority together with other members of the resolution college of the group.

(2) If the resolution action notified under Paragraph one of this Section includes implementation of a group resolution plan, the decision on the group resolution plan shall be taken by the joint decision of the group-level resolution authority and such resolution authorities responsible for the subsidiaries which are covered by the group resolution plan.

(3) If the Financial and Capital Market Commission disagrees with or departs from the group resolution plan proposed by the group-level resolution authority or considers that it needs to take independent resolution actions or measures other than those specified in the proposed plan in relation to the institution or financial company registered in the Republic of Latvia for reasons of financial stability, it shall set out in detail the reasons for the disagreement or the reasons to depart from the group resolution plan, notify the group-level resolution authority and the other resolution authorities that are covered by the group resolution plan of the reasons and inform them of the actions or measures it intends to take. Upon setting out the reasons for its disagreement, the Financial and Capital Market Commission shall assess the resolution plan developed previously, the potential impact on financial stability in the involved Member States, and also the potential effect of the intended actions or measures on other companies of the group.

[*16 February 2017*]

**Section 114.** (1) The Financial and Capital Market Commission may refer to the European Banking Authority with the request to provide assistance in taking the joint decision on a group resolution plan referred to in this Law in accordance with Article 31(c) of Regulation (EU) No 1093/2010.

(2) If the abovementioned group resolution plan is not adopted, the Financial and Capital Market Commission shall cooperate with the resolution college in order to achieve a coordinated resolution strategy in respect of all group companies which become insolvent or are likely to become insolvent.

(3) The Financial and Capital Market Commission shall inform other members of the resolution college of the resolution actions or measures taken thereby and their on-going progress.

(4) The joint decision referred to in this Law and the decisions which resolution authorities take in the cases when they do not agree with the group resolution plan are considered final and the involved resolution authorities shall apply them in the relevant Member States.

[*16 February 2017*]

**Chapter XVIII**

**Relations with Foreign Countries**

**Section 115.** In order to ensure performance of resolution actions, the resolution authorities shall cooperate on the basis of the International Agreement on Co-operation of Resolution Authorities. If the International Agreement on Co-operation of Resolution Authorities has not come into force, the Republic of Latvia may enter into bilateral agreements with foreign countries on cooperation, taking into account the provisions of this Chapter.

**Section 116.** (1) This Section shall be applied to foreign resolution procedure unless the International Agreement on Co-operation of Resolution Authorities has come into force, and also following the coming into force of the abovementioned agreement to the extent that the recognition and enforcement of foreign resolution procedures is not governed by that agreement.

(2) A European resolution college shall, after having discussed, take the joint decision on the recognition of the foreign resolution in relation to a foreign institution or a parent company that:

1) has subsidiaries operating in two or more Member States, or branches regarded as significant in two or more Member States;

2) has assets, rights, or liabilities which are located in two or more Member States or which are governed by the legal acts of those Member States.

(3) If the European resolution college the member of which is the Financial and Capital Market Commission takes the joint decision on the recognition of the foreign resolution, the Financial and Capital Market Commission shall ensure the enforcement of the foreign resolution procedures in accordance with the laws and regulations of the Republic of Latvia.

(4) If the joint decision is not taken by the European resolution college the member of which is the Financial and Capital Market Commission or if a European resolution college has not been established, the Financial and Capital Market Commission shall take its own decision on whether to recognise and enforce the foreign resolution proceedings relating to a foreign institution or a parent company. Upon taking the decision, due consideration to the interests of each individual Member State where the institution or parent company operates, and in particular to the potential impact of the recognition and enforcement of the foreign resolution procedure on the other companies of the group and the financial stability of the abovementioned Member States is given.

(5) Recognition of foreign resolution may include the requirement to:

1) implement the resolution powers in relation to the assets of a foreign institution or parent company which are located in the Republic of Latvia or governed by the laws and regulations of the Republic of Latvia, or the rights or liabilities of a foreign institution which have been booked by the branch registered in the Republic of Latvia or governed by the laws and regulations of the Republic of Latvia, if claims in relation to such rights and liabilities are enforceable in the Republic of Latvia;

2) transfer, and also to request another person to transfer shares or other instruments of ownership to a subsidiary which is performing commercial activity in the Republic of Latvia;

3) implement the rights specified in Section 91, 92, or 93 of this Law for a party which has entered into a contract with the company referred to in Paragraph two of this Section, if such rights are necessary in order to enforce foreign resolution procedures;

4) render unenforceable the rights specified in the contract to terminate or accelerate performance of the contracts of the companies referred to in Paragraph two of this Section or other companies of the group or the amend the rights specified in the contract for the relevant companies in the cases where such rights arise from the resolution action taken in respect of the foreign institution or the parent company of such companies, whether by the foreign resolution authority itself or such action is taken otherwise in accordance with the laws and regulations governing the foreign resolution procedures, provided that the substantive obligations provided for in the contract, including payment and delivery obligations, are still being performed, and also collateral is provided.

(6) The Financial and Capital Market Commission may take, where necessary in the public interest, resolution actions and implement resolution powers with respect to a parent company if the relevant foreign State authority detects that an institution registered in such foreign country meets the conditions for resolution in accordance with the legal acts of that foreign country.

[*16 February 2017*]

**Section 117.** The Financial and Capital Market Commission may, after consulting other European resolution authorities which are part of a college of European resolution authorities, refuse to recognise or enforce foreign resolution procedures if it considers that:

1) the foreign resolution procedures would have adverse effects on financial stability in the Republic of Latvia or in another Member State;

2) independent resolution in relation to a branch registered in the Republic of Latvia of an institution registered in foreign countries is necessary to achieve one or more of the resolution objectives;

3) depositors and other creditors which are located or which are due payments in the Republic of Latvia would not receive the same treatment as creditors of such foreign country with similar legal rights in accordance with the internal resolution procedures of the foreign country;

4) recognition or enforcement of the foreign resolution procedure would have material fiscal implications for the Republic of Latvia or the consequences of such recognition or enforcement would be in contradiction with the laws and regulations of the Republic of Latvia.

**Section 118.** (1) The Financial and Capital Market Commission is entitled to implement the resolution powers in relation to a branch registered in the Republic of Latvia of an institution registered in a foreign country which is not subject to foreign resolution procedures or which is subject to foreign resolution procedures if the Financial and Capital Market Commission considers that the performance of the resolution procedure is necessary in the public interests, any of the circumstances referred to in Section 117 of this Law has set in, and one or more of the following conditions is met:

1) the branch no longer meets, or is likely not to meet, the laws and regulations governing its activity, moreover, it is not foreseeable that any private sector action, supervisory action, or resolution action of the relevant foreign country would restore conformity of the branch with the laws and regulations governing its activity or prevent insolvency in a reasonable time period;

2) the Financial and Capital Market Commission is of the opinion that the foreign institution is unable to pay its liabilities to creditors, and the Financial and Capital Market Commission has ascertained that no foreign resolution procedures or insolvency proceedings have been or will be initiated in relation to the abovementioned foreign institution in a reasonable time period;

3) the resolution procedures are applied to the foreign institution or the foreign resolution authority has notified the Financial and Capital Market Commission of its intention to initiate them.

(2) If the Financial and Capital Market Commission implements the resolution powers in relation to a branch registered in the Republic of Latvia of an institution registered in a foreign country, it shall take into consideration the resolution objectives and take the action in accordance with the requirements of this Law regarding the application of resolution tools.

[*28 February 2019*]

**Section 119.** (1) The provisions of this Section shall be applied in respect of cooperation with a foreign country unless the International Agreement on Co-operation of Resolution Authorities has come into force, and also following the coming into force thereof, insofar the abovementioned agreement does not govern that laid down in this Section.

(2) The Financial and Capital Market Commission has the right, according to the framework cooperation arrangements of the European Banking Authority concluded with foreign authorities, to enter into cooperation arrangements with the following foreign authorities responsible for the resolution:

1) with the State authorities responsible for the resolution in a foreign country where the parent company or the company referred to in Section 2, Paragraph two, Clauses 3 and 4 of this Law is performing commercial activity if European Union subsidiaries are performing commercial activity in two or more Member States;

2) if a foreign institution has one or more branches in the Republic of Latvia and in one or more other Member States, the authorities responsible for the resolution of such foreign country where the abovementioned foreign institution is performing commercial activity;

3) if the parent company or the company which has been referred to in Section 2, Paragraph two, Clauses 3 and 4 of this Law and is performing commercial activity in the Republic of Latvia and which has a subsidiary or a significant branch in another Member State also has one or more foreign subsidiaries, the State authorities responsible for the resolution in the foreign countries where the respective subsidiaries are performing commercial activity;

4) if an institution which has a subsidiary institution or significant branch in the Republic of Latvia has one or more branches in one or more foreign countries, the State authorities responsible for the resolution in the foreign countries where the abovementioned branches are performing commercial activity.

(3) Cooperation arrangements concluded between the Financial and Capital Market Commission and the foreign resolution authorities may include provisions on the following matters:

1) the exchange of information necessary for the preparation and maintenance of resolution plans;

2) consultation and cooperation in the drawing up of resolution plans and exercising of similar powers in accordance with the legal acts of the relevant foreign countries;

3) the exchange of information necessary for the application of resolution tools and implementation of resolution powers and similar powers in accordance with the legal acts of the relevant foreign countries;

4) cooperation in the matters of application of early intervention measures or consultation before taking any significant action in accordance with this Law or the legal acts of the foreign country affecting the institution or group to which the arrangement applies;

5) the coordination of public information by taking joint resolution actions;

6) the procedures and arrangements for the exchange of information and cooperation, including through the establishment and operation of crisis management groups.

(4) This Section shall not limit the right of the Financial and Capital Market Commission from concluding bilateral or multilateral arrangements with foreign countries in accordance with Article 33 of Regulation (EU) No 1093/2010.

(5) The Financial and Capital Market Commission shall notify the European Banking Authority of each cooperation arrangement that it has entered into in accordance with this Section.

[*30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 120.** (1) The Financial and Capital Market Commission and the Ministry of Finance shall exchange restricted access information, including recovery plans, with the relevant State authorities responsible for the resolution in foreign countries only if the following conditions are met:

1) the national legal acts of the foreign authorities responsible for the resolution determine non-disclosure requirements for restricted access information which are equal to the requirements laid down in this Law for such authorities;

2) processing of personal data included in restricted access information, including transmission of such data to a foreign authority, is carried out in accordance with the legal norms governing personal data processing of the Republic of Latvia;

3) the information is necessary in order to perform the functions of the foreign authority responsible for the resolution which are equal to the functions of resolution authorities provided for in this Law.

(2) The Financial and Capital Market Commission may disclose restricted access information received from other Member States to the foreign authorities responsible for the resolution only in the following cases:

1) the authority of such Member State from which the information has been obtained agrees to that disclosure;

2) the information is disclosed only for the purposes permitted by the authorities of such Member State from which the information has been obtained.

**Chapter XIX**

**Resolution Financing Arrangements**

**Section 121.** The Financial and Capital Market Commission shall ensure accumulation and management of funds of the institutions in the national resolution fund. In accordance with Articles 69, 70, 71, 72, 73, and 74 of Regulation No 806/2014, the Financial and Capital Market Commission shall ensure transfer of the contributions of credit institutions to the Single Resolution Fund in accordance with the procedures laid down in the Agreement on the Transfer and Mutualisation of Contributions to the Single Resolution Fund approved by the law On the Agreement on the Transfer and Mutualisation of Contributions to the Single Resolution Fund. The Financial and Capital Market Commission shall use the funds of the Single Resolution Fund in accordance with Article 77 of Regulation No 806/2014.

[*28 February 2019*]

**Section 121.1** (1) The Financial and Capital Market Commission is entitled to decide on the use of the funds of investment firms accumulated in the national resolution fund.

(2) The funds of the national resolution fund shall be used only to the extent necessary to ensure efficient application of the resolution tools for the following purposes:

1) to guarantee the assets or liabilities of the investment firm under resolution, its subsidiaries, a bridge institution, or an asset management company;

2) to make loans to the investment firm under resolution, its subsidiaries, a bridge institution, or an asset management company;

3) to purchase assets of the investment firm under resolution;

4) to finance operation of a bridge institution and an asset management company;

5) to disburse compensation to shareholders and such persons who own other instruments of ownership or creditors in accordance with the procedures laid down in this Law;

6) to finance the investment firm under resolution if the Financial and Capital Market Commission has taken the decision, in accordance with this Law, to exclude or partly exclude certain liabilities from the scope of application of the write-down or conversion power;

7) to issue loans to resolution financing arrangements of other Member States.

(3) The funds of the national resolution fund shall be used for the objectives referred to in Paragraph two of this Section, applying also the sale of business tool.

(4) The funds of the national resolution fund shall not be used to absorb the losses of an investment firm or financial institution or to recapitalise such an investment firm or financial institution. If the use of the resolution fund for the objectives specified in this Section causes losses for an investment firm or financial institution, the conditions for the use of the national resolution fund indicated in Sections 56 and 57 of this Law shall be applied.

[*28 February 2019*]

**Section 121.2** (1) The Financial and Capital Market Commission shall determine the annual payment in the national resolution fund for each investment firm as 0.01 per cent of the amount of its liabilities (except for own funds), taking into account the total liabilities of all investment firms (except for own funds) and adjusting it in conformity with the risk profile of the investment firm stipulated by the Financial and Capital Market Commission. A payment in the national resolution fund may not be less than EUR 1000 per year. The Financial and Capital Market Commission shall issue regulatory provisions in which the procedures for making payments in the national resolution fund are determined.

(2) The financial resources present in the national resolution fund may include payment liabilities of investment firms in the amount of not more than 30 per cent of the total amount of resources present in such fund.

(3) If the financial resources available in the national resolution fund are not sufficient in order to cover losses, costs, or other expenditures thereof incurred by the use of such fund, investment firms shall make additional payments. Additional payments for investment firms shall be determined in accordance with the provisions of Paragraph one of this Section. The amount of additional payments may not exceed three times the amount of the specified annual payments.

(4) The Financial and Capital Market Commission may allow to defer, in whole or in part, making of additional payments by an investment firm in the national resolution fund if it is necessary to protect the financial position of such investment firm. Such exemption shall be granted for a period not exceeding six months, and it may be extended upon request of the investment firm. The deferred payment shall be made by the investment firm at a point in time when such payment no longer jeopardises the liquidity or solvency thereof.

(5) Payments of an investment firm in the national resolution fund shall be included in its expenditures.

[*28 February 2019; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 121.3** The Financial and Capital Market Commission is entitled to use alternative funding sources and conclude contracts on borrowings or other forms of support with investment firms, financial institutions, or other third parties if the funds of the resolution fund are not immediately accessible or are not sufficient in order to cover the losses, costs, or other expenditures incurred by the use of such fund, or additional payments are not immediately accessible or are not sufficient.

[*28 February 2019*]

**Section 121.4** The Financial and Capital Market Commission may request a borrowing from resolution financing arrangements of other Member States if:

1) there are no sufficient funds in the national resolution fund in order to cover the losses, costs, or other expenditures incurred by the use of such fund;

2) the additional payments are not immediately accessible;

3) the funds of alternative funding sources are not accessible.

[*28 February 2019*]

**Section 121.5** (1) If the Financial and Capital Market Commission is the group-level resolution authority, it shall, after consulting the resolution authorities of the investment firms that are part of the group, propose, before taking any resolution action, a group financing plan as part of the group resolution plan.

(2) The group financing plan shall include:

1) a valuation in respect of the companies belonging to the group;

2) the losses to be recognised by each company belonging to the group at the moment when the resolution tools are applied;

3) in relation to each company belonging to the group – the possible losses of each class of shareholders and creditors;

4) the total financing necessary from resolution financing arrangements of the Member States and the purpose and form of the financing;

5) the calculation of the amount that each of the resolution financing arrangements of the Member States where the companies belonging to the group are located pays in the financing of the group resolution in order to build up the total necessary financing referred to in Clause 4 of this Paragraph;

6) the amount that each of the resolution financing arrangement of such Member States where the companies belonging to the group are located pays in the financing of the group resolution and the procedures for the making of such payment;

7) the amount of a borrowing that the resolution financing arrangements of such Member States where the companies belonging to the group are located will obtain;

8) the time period for the use of the resolution financing arrangements of such Member States where the companies belonging to the group are located, providing for the possibility, where appropriate, to extend such time period.

(3) Unless specified otherwise in the group financing plan, upon calculating the contribution of resolution financing arrangement of each Member State, the Financial and Capital Market Commission shall take into consideration:

1) the proportion of the risk-weighted assets of the group held at investment firms and financial institutions registered in the relevant Member State of the resolution financing arrangement;

2) the proportion of the assets of the group held at investment firms and financial institutions registered in the relevant Member State of the resolution financing arrangement;

3) the proportion of such losses which have given rise to the need for group resolution in those group companies which are under supervision of the authorities responsible for the resolution financing arrangement;

4) the proportion of such resources of the group financing which, according to the financing plan, are intended to be used to provide direct contribution in the group companies which are registered in the relevant Member State of the resolution financing arrangement.

(4) In order to ensure group financing, the national resolution fund may enter into contracts on receipt of borrowings or other forms of support.

(5) The national resolution fund may guarantee a borrowing contracted by other group resolution financing arrangements in accordance with Paragraph four of this Section.

(6) The Financial and Capital Market Commission shall ensure that any revenues that arise from the use of the group financing arrangements are allocated to resolution financing arrangements of the Member States in conformity with their payments to the financing of the resolution.

[*28 February 2019*]

**Section 122.** [16 February 2017]

**Section 123.** [16 February 2017]

**Section 124.** [16 February 2017]

**Section 125.** [16 February 2017]

**Section 126.** [16 February 2017]

**Section 127.** (1) If the Financial and Capital Market Commission takes a resolution action, concurrently ensuring that depositors have free access to their deposits, payments from the deposit guarantee fund may be made in the following amount:

1) if the bail-in tool is applied – the amount by which covered deposits would have been written down in order to absorb the losses, if the covered deposits would have been subject to the application of bail-in and would have been written down to the same extent as liabilities with the same level of priority under insolvency proceedings;

2) if one or more resolution tools other than the bail-in tool is applied – the amount of losses of such depositors to which the covered deposits belong, if such depositors would have suffered losses in proportion to the losses incurred by creditors having liabilities with the same level of priority under insolvency proceedings.

(2) The participation of the deposit guarantee fund in funding of resolution shall not exceed the losses that would have been incurred for the deposit guarantee fund in case of insolvency of the institution under resolution.

(3) If the bail-in tool is applied, no payments need to be made from the deposit guarantee fund in order to cover the costs of recapitalising the institution or bridge institution.

(4) If it is established that the payment of the deposit guarantee fund to resolution had exceeded the net losses which the deposit guarantee fund would have incurred by winding up of the institution, the deposit guarantee fund has the right to the disbursement of the consideration from the resolution fund.

(5) The Financial and Capital Market Commission shall ensure that the amount of liabilities of the deposit guarantee fund referred to in Paragraph one of this Section arises from the valuation prepared in accordance with the provisions of Chapter VIII of this Law.

(6) The payments which arise from the liabilities referred to in Paragraph one of this Section shall be made in money and they may not exceed 0.4 per cent of the covered deposits. After the payments are made from the funds of the deposit guarantee fund for covering resolution actions of the institution, the Financial and Capital Market Commission shall obtain the right of claim against the institution in the amount of the sum of such payments. The funds acquired through subrogation shall be transferred into the deposit guarantee fund.

(7) If eligible deposits of an institution under resolution are transferred to another company, using the sale of business tool or the bridge institution tool, the depositors have no right to claim against the deposit guarantee fund in relation to the remaining deposits in the institution under resolution which were not transferred, provided that the amount of the deposits transferred is at least equal to the total amount of guaranteed compensation.

[*28 February 2019*]

**Chapter XX**

**Liability**

**Section 128.** The Financial and Capital Market Commission or its authorised representative has the right to request and receive information from the institution and financial company, to carry out on site inspections, to become familiar with documentation, and to request explanations that are necessary for the supervision of conformity with the requirements of this Law.

**Section 129.** (1) The Financial and Capital Market Commission is entitled to impose the following sanctions for the violation of Sections 5, 7, 12, 18.1, 30, 65, 76, and 103 of this Law:

1) to provide a public statement indicating the responsible natural person, institution, financial company, European Union parent company registered in the Republic of Latvia, or another legal person and the nature of the violation;

2) [23 September 2021];

3) [23 September 2021];

4) to impose a fine on a legal person of up to 10 per cent of the amount of net income of the preceding financial year which conforms to the amount which, in accordance with Regulation No 575/2013, is used in order to calculate the own funds requirements for operational risk according to the basic indicator approach. If 10 per cent of the amount of net income of the preceding financial year which has been calculated in accordance with what is laid down in the first sentence of this Clause constitutes less than EUR 142 300, the Financial and Capital Market Commission is entitled to impose a fine of up to EUR 142 300. If a legal person is a subsidiary of a parent company, the amount of net income of the preceding financial year shall conform to the amount which, in accordance with Regulation No 575/2013, is used in order calculate the own funds requirements for operational risk according to the basic indicator approach on the basis of the data presented by the final parent company in consolidated financial statements of the preceding financial year;

5) to impose a fine of up to five million EUR on the natural person responsible for the violation;

6) to impose a fine of up to double the amount of the income generated a result of the violation or of the prevented possible losses.

(2) For the violation of the Sections of this Law referred to in Paragraph one of this Section, the directly applicable legal acts of the European Union, or regulatory provisions issued or decisions taken by the Financial and Capital Market Commission, the Financial and Capital Market Commission is entitled to apply the following administrative measures:

1) to request the natural or legal person responsible for the violation to cease such action and refrain from repeating it;

2) to impose a temporary ban to perform the duties on any member of the supervisory board and executive board of the institution or financial company or any other natural person who is considered responsible for the violation.

[*23 September 2021; 30 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka”, amendment regarding the replacement of the words “regulatory provisions” with the word “provisions” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 130.** (1) The Financial and Capital Market Commission shall post on its website the information on the sanctions and administrative measures imposed for the violation of this Law and the regulatory provisions issued by the Financial and Capital Market Commission on the basis thereof by indicating the data on the person and the violation committed thereby, and also regarding the appeal of the administrative act issued by the Financial and Capital Market Commission and the ruling taken thereby.

(2) The Financial and Capital Market Commission may make public the information referred to in Paragraph one of this Section without identifying the person if it establishes after performance of the prior assessment that the disclosure of personal data of the natural person is not commensurate or the disclosure of the data of the natural or legal person may threaten stability of the financial market or may cause incommensurate damage to the persons involved, or criminal proceedings have been initiated.

(3) If it is foreseeable that the circumstances referred to in Paragraph two of this Section will end within a reasonable time period, making public of the information referred to in Paragraph one of this Section may be suspended for this time period.

(4) The information posted on the website of the Financial and Capital Market Commission in accordance with the procedures laid down in this Section shall be available for five years from the date of posting thereof.

(5) The Financial and Capital Market Commission shall inform the European Banking Authority of the sanctions imposed on and administrative measures applied to persons.

[*23 September 2021* / *Amendment to Paragraph one regarding the replacement of the words “appeal of the administrative act” with the words “contestation and appeal of the administrative act” and amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka”, and also amendment regarding the replacement of the words “regulatory provisions” with the word “provisions” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Section 131.** (1) Contestation and appeal of the administrative act issued by the Financial and Capital Market Commission shall not suspend the operation thereof. An administrative act of the Financial and Capital Market Commission on application of the crisis management measures shall be enforced without delay.

(2) An administrative act of the Financial and Capital Market Commission may be appealed to the District Administrative Court. The District Administrative Court shall examine the case under emergency procedure.

(3) An applicant shall specify the justification of the application. Participants to the administrative proceeding shall be subject to the burden of proof.

(4) A cassation complaint may be submitted in respect of the ruling of the District Administrative Court. The Supreme Court shall examine the case under emergency procedure.

(5) Decisions of a court (judge) which are taken upon performance of procedural actions for the examination of the submitted application or initiated case shall not be appealed.

(6) If the law determines the time period for execution of any procedural action, but, upon execution of the relevant procedural action within this time period, the conditions of Paragraphs two and four this Section would not be complied with, the court (judge) itself shall determine an appropriate time period for the execution of the relevant procedural action.

(7) The revocation of the administrative act issued by the Financial and Capital Market Commission on taking the crisis management measures for the purpose of protecting the interests of such third parties which have acquired the shares or other instruments of ownership, assets, rights, and liabilities of the institution under resolution in good faith shall not affect the decisions taken and actual actions performed by the Financial and Capital Market Commission which were directed towards execution of the revoked decision. The Financial and Capital Market Commission shall be responsible for the losses caused by the revoked administrative act.

[*23 September 2021* / *Amendment regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka” shall come into force on 1 January 2023 and shall be included in the wording of the Law as of 1 January 2023. See Paragraph 4 of Transitional Provisions*]

**Transitional Provisions**

[*16 February 2017*]

1. With the coming into force of this Law, the Law on the Taking over of Banks (*Latvijas Vēstnesis*, 2008, No. 202) is repealed.

[*16 February 2017*]

2. Resolution actions in respect of the subjects referred to in Article 7(5) of Regulation No 806/2014 which the resolution institution has commenced until the day of coming into force of Chapter IV.1 of this Law shall be implemented in conformity with those legal norms which were in force on the day of taking the decision on a resolution action.

[*16 February 2017*]

3. The regulatory provisions issued by the Financial and Capital Market Commission on the basis of this Law, until the day of coming into force of the Law on Latvijas Banka, shall be applied until the day of coming into force of the relevant regulations of Latvijas Banka, but not longer than until 31 December 2024.

[*23 September 2021*]

4. Amendments to this Law regarding the replacement of the words “Financial and Capital Market Commission” with the words “Latvijas Banka”, the replacement of the words “regulatory provisions” with the words “provisions”, the new wording of Paragraph three of Section 3, amendment regarding the deletion of Paragraph two of Section 4, and amendment to Section 20, amendments regarding the deletion of Paragraph two, Clause 2 of Section 103 and Paragraph one, Clause 2 of Section 104, amendments to Paragraphs one and four of Section 105, amendment to Paragraph one of Section 130 regarding the replacement of the words “appeal of the administrative act” with the words “contestation and appeal of the administrative act” shall come into force concurrently with the Law on Latvijas Banka.

[*23 September 2021* / *The abovementioned amendments shall be included in the wording of the Law as of 1 January 2023.*]

5. Section 58.1 of this Law shall not be applicable to the liabilities specified in Paragraph one thereof and issued before 28 December 2020.

[*30 September 2021* / *Numbering of the Clause is amended by the Law of 28 April 2022 /*

6. By way of derogation from Section 59, Paragraph one of this Law (in the new wording), the Financial and Capital Market Commission shall set a transitional period but not later than 31 December 2023 by which the institution or financial company fulfils the requirements laid down in Section 60.2 or 61 of this Law (in the new wording) or, where applicable, the requirements arising from Section 59.1, Paragraphs seven, eight, nine, ten, eleven, twelve, thirteen, or sixteen of this Law.

[*30 September 2021* / *Numbering of the Clause is amended by the Law of 28 April 2022*]

7. The Financial and Capital Market Commission shall determine the interim extent of the requirements laid down in Section 60.2 or 61 of this Law (in the new wording) or, where applicable, the requirements arising from Section 59.1, Paragraphs seven, eight, nine, ten, eleven, twelve, thirteen, or sixteen of this Law which the institution or financial company fulfils by 31 December 2021 and which ensures a linear build-up in own funds and eligible liabilities until fulfilment of the requirement.

[*30 September 2021* / *Numbering of the Clause is amended by the Law of 28 April 2022*]

8. The Financial and Capital Market Commission may also set a transitional period after 31 December 2023 if it is justified and appropriate taking into account Paragraph 11 of these Transitional Provisions and the following:

1) the evolution of the financial situation of the institution or financial company;

2) the prospect that the institution or financial company will ensure, within a reasonable time period, the fulfilment of the requirements laid down in Section 60.2 or 61 of this Law (in the new wording) or the requirements arising from Section 59.1, Paragraphs seven, eight, nine, ten, eleven, twelve, thirteen, or sixteen of this Law;

3) the fact whether the institution or financial company is able to replace liabilities that no longer conform to the eligibility or time criteria laid down in Articles 72b and 72c of Regulation No 575/2013 or Section 59.1 or Section 61, Paragraph six of this Law, and, if it is not able, whether this inability is of specific character or related to market-wide disturbance.

[*30 September 2021; 28 April 2022*]

9. The resolution entities shall fulfil the requirements laid down in Section 60, Paragraphs fourteen, fifteen, or sixteen and seventeen of this Law by 31 December 2021.

[*30 September 2021* / *Numbering of the Clause is amended by the Law of 28 April 2022*]

10. In applying Paragraphs 6, 7, 8, and 9 of these Transitional Provisions, the Financial and Capital Market Commission shall notify the institution or financial company of the planned minimum requirement for own funds and eligible liabilities for each 12-month period within the transitional period in order to facilitate gradual increase of its loss absorption and recapitalisation capacity. At the end of the transitional period the minimum requirement for own funds and eligible liabilities shall be equal to the amount specified in accordance with Section 59.1, Paragraphs seven, eight, nine, ten, eleven, twelve, thirteen, or sixteen, Section 60, Paragraphs fourteen, fifteen or sixteen and seventeen, Section 60.2 or 61 of this Law (in the new wording).

[*30 September 2021; 28 April 2022*]

11. In setting the transitional periods provided for in Paragraphs 6, 7, 8, and 9 of these Transitional Provisions, the Financial and Capital Market Commission shall take into account the following:

1) the prevalence of deposits and absence of debt instruments in the funding model;

2) the access to financial markets for financing eligible liabilities;

3) the amount in which the resolution entity depends on the Common Equity Tier 1 to fulfil the requirement referred to in Section 60.2 of this Law.

[*30 September 2021; 28 April 2022*]

12. In compliance with Paragraphs 6, 7, and 8 of these Transitional Provisions, the Financial and Capital Market Commission may review either the transitional period or any planned minimum requirement for own funds and eligible liabilities which has been notified in accordance with Paragraph 10 of these Transitional Provisions.

[*30 September 2021; 28 April 2022*]

13. Amendments to Section 1, Paragraph one, Clauses 23 and 43, Section 2, Paragraph one of this Law, Paragraph two, Clause 6 and the new wording of Paragraph four, amendments to Section 5, Paragraph one, Section 20, Paragraph eight, Clause 9.1, Section 21, Paragraph 5.1, amendments to Section 33, Paragraph one, Section 44, Paragraph two, Section 48, Paragraph five, Clause 5, Section 53, Paragraph one, Clause 1, Section 54, Paragraph three, Section 59.1, Paragraph thirteen and the new wording of Paragraph sixteen, Clause 2, amendments to Section 60, Paragraph one, Clause 2 and 3, Paragraph two, Clause 2, Paragraph three, Paragraph five, Clause 1.1 and Paragraph eighteen, Clause 1.1, amendments to Section 67, Paragraph two, the new wording of Section 79, Paragraph one, amendments to Paragraphs 1.1, two, and four, Section 80, Paragraphs five and seven, Section 93.1, Paragraph five, and Section 105, Paragraph one, Clause 3 shall come into force concurrently with the Law on Investment Firms.

[*28 April 2022* / *The abovementioned amendments shall be included in the wording of the Law as of 31 May 2022.*]

14. The new wording of Section 3, Paragraph three of this Law shall come into force on 1 January 2023.

[*28 April 2022* / *The abovementioned amendment is included in the wording of the Law as of 1 January 2023*]

**Informative Reference to European Union Directives**

[*28 February 2019; 30 September 2021; 28 April 2022*]

This Law contains norms arising from:

1) Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council Text with EEA relevance;

2) Directive (EU) 2017/2399 of the European Parliament and of the Council of 12 December 2017 amending Directive 2014/59/EU as regards the ranking of unsecured debt instruments in insolvency hierarchy;

3) Directive (EU) 2019/879 of the European Parliament and of the Council of 20 May 2019 amending Directive 2014/59/EU as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms and Directive 98/26/EC;

4) Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU.

The Law has been adopted by the *Saeima* on 18 June 2015.

President A. Bērziņš

Rīga, 2 July 2015