European Bank Recovery and Resolution Directive

ISDA BRRD Implementation Monitor (4th edition) – status of national implementation as of 2 June 2016

FULLY IMPLEMENTED	MOSTLY IMPLEMENTED	PARTIALLY IMPLEMENTED	NOT YET IMPLEMENTED
Austria	**Belgium**	**Slovenia**	**Iceland***
Bulgaria	**Croatia**		**Liechtenstein***
Cyprus	**France**		**Norway***
Czech Republic	**Latvia**		**Poland**
Denmark	***Switzerland****		
Estonia			
Finland			
Germany			
Gibraltar			
Greece			
Hungary			
Ireland			
Italy			
Lithuania			
Luxembourg			
Malta			
Netherlands			
Portugal			
Romania			
Slovakia			
Spain			
Sweden			
UK			

***** The BRRD is a "text with EEA relevance" and, as such, is currently under scrutiny by the Joint Committee of the European Economic Area (EEA). Further formal steps are required before the BRRD is incorporated into the EEA Agreement, thereby requiring the three non-EU member states of the EEA to implement the BRRD. There is currently no official indication of when those further formal steps will be completed or what the timing for implementation will be for the three non-EU EEA member states.

** Switzerland is not required to implement BRRD but has introduced a regime with similar characteristics to BRRD. For this reason, it has been put into the "Mostly Implemented" category, but that designation should be interpreted in light of the previous sentence..

[This page has been intentionally left blank]

ISDA Safe, Efficient Markets

European Bank Recovery and Resolution Directive (BRRD)[1] – Monitor of national implementation[2] as of 2 June 2016[3] (4th edition)[4]

This table provides summary information and is for general guidance only. It is not legal advice and should not be relied upon as a basis for providing definitive advice. English translations of statutory or other references are indicated in brackets, are for guidance only and are not necessarily official translations. Users of the summary are encouraged to contact the person indicated for updated information and specific advice in the relevant jurisdiction.

Please address any general comments or queries on this summary to Peter Werner, ISDA EMEA Office, London (pwerner@isda.org), Ed Murray, Allen & Overy LLP, London (ed.murray@allenovery.com) or Kate Sumpter, Allen & Overy LLP, London (kate.sumpter@allenovery.com).

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
Austria	EU member state and member of the euro area	Fully implemented	1 January 2015	1 January 2015	*Bundesgesetz über die Sanierung und Abwicklung von Banken (Sanierungs- und Abwicklungsgesetz* – **BaSAG**) (Austrian Act on Bank Recovery and Resolution)	The resolution authority is the Financial Market Authority (*Finanzmarktaufsicht* – **FMA**) and the competent authority is the FMA or the European Central Bank (the **ECB**)	Safeguards under BRRD Articles 76 to 80 have been implemented by: § 110 BaSAG, § 111 BaSAG, § 112 BaSAG, and § 113 BaSAG	There is no specific statutory remedy for a breach of the Article 77 safeguard. There is the general recourse to appeal (*Rechtsmittelweg*) that parties affected by a resolution measure may take. The appeal (*Vorstellung*) must be filed within 3 months as of the announcement of the resolution measure. The appeal has no postponing effect (*keine aufschiebende Wirkung*). The resolution authority will consider all appeals received with a view to a specific resolution order in one ruling	Article 55 of BRRD has been implemented in § 98 BaSAG. The implementation is an almost verbatim reproduction of Article 55 BRRD. There are no supplemental legal acts by the Austrian legislator available.	Stefan Paulmayer (s.paulmayer@schoenherr.eu) Martin Ebner (m.ebner@schoenherr.eu) Schoenherr Schottering 19 A-1010 Vienna Austria Tel. Stefan: +43 1 534 37 50789 Tel. Martin: +43 1 534 37 50193	The Austrian legislator has on 26 November 2015 submitted a draft bill to amend the existing BRRD implementation in order to clarify the wide scope of the exemption from bail-in. The bill has been passed in the Austrian National Chamber and in the Federal Chamber. The bill has been published in the Official Gazette on 28 December 2015 and entered into force the day after.

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 [2014] OJ L173/190.

2 The BRRD entered into force on 2 July 2014. EU member states were required under Article 130 of the BRRD to adopt and publish the laws, regulations and administrative provisions necessary to comply with the BRRD by 31 December 2014 and to apply those with effect from 1 January 2015, except in relation to the bail-in provisions, which are to apply from 1 January 2016 at the latest.

3 Counsel for each jurisdiction has been asked to summarise the relevant position as of this date. ISDA intends to update this table periodically, roughly every two to three months. For the latest position in a country, users of this summary are encouraged to contact local counsel in that country.

4 This is the fourth edition of the ISDA BRRD Monitor. The first edition stated the position as of 10 June 2015, the second edition as of 4 September 2015 and the third edition as of 7 January 2016.

5 The Single Resolution Mechanism (**SRM**), established by Regulation (EU) No. 806/2014 of the European Parliament and the Council (the **SRM Regulation**), is coordinated by the single resolution board (the **SRB**), established by the SRM Regulation. The SRB became fully responsible for resolution under the SRM from 1 January 2016. The SRM applies to banks established in EU member states participating in the single supervisory mechanism (the **SSM**). This includes each EU member state that is a member of the euro area and any other EU member state that requests "close cooperation" to be established between the European Central Bank and the relevant national competent authority. To date, it appears that no other EU member state has requested this close cooperation and thereby made itself subject to the SSM and SRM (although some have indicated an intention to do so in the future). The SRM provides for a division of tasks between the SRB and the national resolution authorities of the participating member states. Under the SRM the SRB performs certain tasks and exercises certain powers that under the BRRD are to be exercised by the relevant national resolution authority in relation to any local bank or cross-border banking group with a local entity or branch falling within the scope of the SRM Regulation.

6 Status of implementation refers to the extent member states have complied with their obligations under the relevant EU treaties to enact the appropriate legislation to give effect to BRRD.

7 This refers to the requirement of each member state to designate one or, exceptionally, more resolution authorities under BRRD Article 3 and each competent authority as defined in BRRD Article 2(1)(21). See also note 5.

8 In August 2014 ISDA prepared a briefing paper for EU member state national authorities to assist them in implementing the requirement under BRRD Article 77(1) to ensure there is "appropriate protection" for title transfer financial collateral arrangements and set-off and netting arrangements from the exercise of certain resolution powers under the BRRD. The briefing paper may be accessed at: http://www2.isda.org/attachment/Njc5Nw==/EU_BRRD_%20ISDA_Briefing_Note_Art_77_Aug14.pdf.

9 See note 8.

10 BRRD Article 55 requires member states to require each firm subject to resolution under the BRRD to include a contractual term in any contract governed by the law of a "third country" (i.e. non-EU/EEA member state) by which the counterparty recognises the exercise of a bail-in power by the firm's home resolution authority in relation to a liability of the firm under that contract, subject to certain exclusions. On 23 March 2016 the European Commission adopted a Commission Delegated Regulation setting out regulatory technical standards, prepared by the European Banking Authority as required by Article 55, but the Commission Delegated Regulation has not yet come into force.

11 Comments are not intended to be a summary of the legislation or to highlight all points that might be relevant, but merely selected points that might be worthy of note, principally in relation to the impact of the implementation of the BRRD on the derivatives market. Please contact local counsel in a country for more detailed advice on local implementation of the BRRD and/or specific advice in relation to a particular case.

This table provides summary information and is for general guidance only. It is not legal advice and should not be relied upon as a basis for providing definitive advice. English translations of statutory or other references are indicated in brackets, are for guidance only and are not necessarily official translations. In relation to each jurisdiction, a user of the summary is encouraged to contact the person indicated for updated information and specific advice.

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
								(*Vorstellungsbescheid*), which may in turn be appealed. This appeal will be decided by the Federal Administrative Court (*Bundesverwaltungsgericht*). Again, such appeal has no postponing effect.			
Belgium	EU member state and member of the euro area	Mostly implemented	Most provisions of the Banking Supervision Law apply as from 7 May 2014 (i.e. date of publication of the law in the Belgian Official Gazette). The provisions related to the resolution of credit institutions in the Laws of 25 April 2014 apply as from 3 March 2015 (Royal Decree of 22 February 2015 published in the Belgian Official Gazette on 3 March 2015, p. 14969). The Royal Decree of 22 February 2015 on the organisation of the Resolution College entered into force on 6 March 2015 (ie date of publication of the Royal Decree in the Belgian Official	The Bail-in Royal Decree entered into force on 1 January 2016 (cf. Article 30 of the Royal Decree). Note that the Royal Decree must be ratified by a Law before 29 December 2016 (ie within one year of the publication of the Royal Decree in the Belgian Official Gazette).	The Law of 25 April 2014 on the status and supervision of credit institutions (the **Banking Supervision Law**) (NI: *Wet van 25 april 2014 op het statuut van en het toezicht op kredietinstellingen* / Fr: *Loi du 25 avril 2014 relative au statut et au contrôle des établissements de crédit).* The recovery of credit institutions can be found in Book II, Title IV (ie Articles 226 to 238), the resolution of credit institutions in Book II, Title VIII (ie Articles 242 to 311) (Publication in Belgian Official Gazette of 7 May 2014, p. 36.794). The Law of 25 April containing various provisions (NI: *Wet van 25 April 2014 houdende diverse bepalingen* / Fr: *Loi du 25 avril 2014 portant des dispositions diverses*) (together with the Banking Supervision Law, the **Laws of 25 April 2014**). Articles 56–59, 61 and 62 amend the Law of 22 February 1998 determining the statute of the Belgian National Bank (the **Law on the statute of the NBB**). These provisions determine the establishment and functioning of a Resolution College within the NBB, ie the Belgian Banking Resolution Authority (Publication in Belgian Official Gazette on 7 May 2014, 2nd edition, p. 36.946). The Royal Decree of 22 February 2015 determining the rules for the organisation and operation of the Resolution College, the conditions for exchange of information between the Resolution College and third parties and the conflicts of interest-prevention measures. (NI: *Koninklijk besluit van 22 februari 2015 tot vaststelling van de regels voor de organisatie en de werking van het Afwikkelingscollege, de voorwaarden voor de uitwisseling van informatie tussen the Afwikkelingscollege en derden en de maatregelen die moeten worden genomen om belangenconflicten te voorkomen.* / Fr: *Arrêté royale du 22 février 2015 déterminant les modalités d'organisation et de fonctionnement du Collège de résolution, les conditions dans*	The resolution authority is the National Bank of Belgium (the **NBB**). To exercise its tasks, a Resolution College has been created within the NBB. The competent authority for prudential supervision of credit institutions is the NBB. The Financial Services and Markets Authority (**FSMA**) is the competent authority for conduct supervision of financial institutions and intermediaries.	Safeguards under BRRD Articles 76 to 80 have been implemented in the Banking Supervision Law by the following provisions: • Safeguard for counterparties in partial transfers (Articles 282-284); • Protection for structured finance arrangements, security arrangements and netting agreements (Articles 285-286); • Exclusion of certain contractual rights (Article 287); • Protection for payment and clearing systems, central counterparties and central banks (Article 288); and • Protection of employees (Articles 289-290).	The remedy for breach of the Article 77 safeguard (Article 286 of the Banking Supervision Law) is not expressly provided in the Belgian BRRD implementation. However, any decision of the resolution authority to transfer assets of the credit institution (including write-offs and bail-in) is subject to the prior approval of the court (Article 296 of the Banking Supervision Law). The court will check the decision's conformity with the relevant provisions of the Banking Supervision Law. In addition, appeal can be lodged against any resolution measure (including, but not limited to, decisions to transfer assets) with the Court of Appeal (Article 305 of the Banking Supervision Law). In principle, the appeal does not suspend the execution of the resolution measure, but the Court of Appeal may decide to suspend the consequences of such	Article 55 of the BRRD (the requirement to insert a contractual bail-in clause in non-EU law governed liabilities, along with the possibility for the resolution authority to request a legal opinion on the effectiveness and enforceability of such clause) has been implemented into Belgian law by the new Article 267/15 of the Banking Supervision Law, introduced by Article 24 of the Amending Law of 18 December 2015.	Sylvia Kierszenbaum (sylvia.kierszenbaum@allenovery.com) Niels De Waele (niels.dewaele@allenovery.com) Inez De Meuleneere (inez.demeuleneere@allenovery.com) Allen & Overy LLP Tervurenlaan 268A avenue de Tervueren B-1150 Brussels Belgium Tel. Sylvia: +32 3 287 74 10 Tel. Niels: +32 3 287 73 51 Tel. Inez: +32 2 780 2356	The NBB also publishes various circulars and communications regarding the supervision of credit institutions, which are on the NBB website (see for instance: Communication NBB_2015_17 of 8 April 2015 on Recovery Plans – Guidelines for credit institutions). On 13 May 2016, a new draft law was introduced in Belgian Parliament, which aims to further implement the BRRD. Based on the current text available, the purpose of the new draft law is to: • confirm the Bail-in Royal Decree and the Royal Decree on the resolution of groups; • add and clarify the provisions in relation to granting financial support within a group and the coordination of resolution measures within groups; and • further implement BRRD-provisions in relation to the use of government financial stabilisation tools (cf. Articles 55 to 58 BRRD), the objectives of resolution financing arrangements (cf. Article 44 (4) to (8) BRRD) and the establishment and use of resolution financing arrangements, with oa. ex-ante contributions by the sector (cf. Article 99 to 106 BRRD).

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
			Gazette). The amendments to the provisions of the Banking Supervision Law, and to the Law on the Statute of the NBB, introduced by the Amending Law of 18 December 2015, apply as from 8 January 2016 (ie 10 days after its publication in the Belgian Official Gazette). The Royal Decree on the resolution of groups entered into force on 1 January 2016 (cf. Article 6 of the Royal Decree). Note that the Royal Decree must be ratified by a Law before 31 December 2016 (ie within one year of the publication of the Royal Decree in the Belgian Official Gazette).		*lequelles le Collège de résolution change de l'information avec des tiers et les mesures prises pour prévenir la survenance de conflits d'intérêts*). Determines the rules for organisation and operation of the Resolution College, the conditions for exchange of information between the Resolution College and third parties and the conflicts of interest-prevention measures (Publication in Belgian Official Gazette on 6 March 2015, p. 15.435). The Law of 18 December 2015 containing various financial provisions (the **Amending Law of 18 December 2015**) amends provisions related to the resolution of credit institutions contained in the Banking Supervision Law and in the Law on the statute of the NBB. (Nl: *Wet van 18 december 2015 houdende diverse financiële bepalingen. / Fr: Loi du 18 décembre 2015 portant des dispositions financières diverses*). (Publication in the Belgian Official Gazette on 29 December 2015, p. 79809). The Royal Decree of 26 December 2015 amending the Law of 25 April 2014 on the status and supervision of credit institutions related to the recovery and resolution of groups (the **Royal Decree on the resolution of groups**), implements the BRRD provisions related to the recovery and resolution of groups into the Belgian legislative framework in execution of Article 311 and 387 of the Banking Supervision Law. (Nl: *Koninklijk besluit van 18 december 2015 tot wijziging van de wet van 25 april 2014 op het statuut van en het toezicht op kredietinstellingen. / Fr: Arrêté royal modifiant la loi du 25 avril 2014 relative au statut et au contrôle des établissements de credit*). (Publication in the Belgian Official Gazette on 31 December 2015, p. 81531). The Royal Decree of 18 December 2015 amending the Law of 25 April on the status and supervision of credit institutions (the **Bail-in Royal Decree**), introduces the bail-in mechanism into the Belgian legislative framework in execution of Article 255(2) of the Banking Supervision Law. (Nl: *Koninklijk besluit van 18 december 2015 tot wijziging van de wet van 25 april 2014 op het statuut van en het toezicht op kredietinstellingen. / Fr: Arrêté royal modifiant la loi du 25 avril 2014 relative au statut et au contrôle des établissements de credit*). (Publication in the Belgian Official Gazette on 29 December 2015, p. 79826).			measure in light of the general interest (Article 306 of the Banking Supervision Law). Based on the preparatory works to the Banking Supervision Law, to protect third parties acting in good faith and to preserve the stability of the financial markets, this appeal should not affect the validity of the resolution measure concerned, but may only lead to compensation for damages (if any).			

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
Bulgaria	EU member state	Fully implemented	14 August 2015 There are two sets of rules under the Act whose entry into force has been delayed. As a preliminary note in this respect - the Act contains detailed rules on the establishment, management and functions of a Restructuring of Banks Fund (the **RBF**) and a Restructuring of Investment Firms Fund (the **RIFF**). Certain provisions relating to the contributions that have to be made to the RIFF will enter into force on 1 January 2017, and certain rules relating to certain assets thresholds that are to be reached by the RBF and the RIFF and the respective consequences will enter into force on 1 January 2025.	14 August 2015	The title of the legislation is "Act on Recovery and Restructuring of Credit Institutions and Investment Firms" (the **Act**). The final rules to the Act contain provisions amending in certain respects the following statutes: • the Bank Insolvency Act; • the Bulgarian National Bank Act; • the Financial Supervision Commission Act; • the Financial Collateral Agreements Act; • the Public Offering of Securities Act; and • the Markets in Financial Instruments Act.	Under the Act the resolution and competent authority for credit institutions is the Bulgarian National Bank, and the resolution and competent authority for investment firms is the Financial Supervision Commission.	Safeguards under BRRD Articles 76 to 80 are implemented as follows: • Article 76 of the BRRD - in article. 108 of the Act; • Article 77 of the BRRD - in article 109 of the Act; • Article 78 of the BRRD - in article. 110 of the Act; • Article 79 of the BRRD - in article. 111 of the Act; and • Article 80 of the BRRD - in article. 112 of the Act.	The remedies in Bulgaria for breach of the Article 77 BRRD safeguard are as follows: • the protection against partial transfers is to treat them as void, which differs from the approach recommended by ISDA under its Briefing Note (see footnote 8 for link to this Briefing Note); and • the appropriate protection against modification or termination rights is to treat them as void.	Article 55 BRRD is transposed in the Act almost verbatim. The term "third country" for the purposes of the Act however is not defined expressly[12] . So there is some ambiguity on the scope of the requirement for contractual recognition under the Act of bail-in when an agreement "is governed by the law of a third country". As far as the Act transposes the BRRD, and the BRRD would be relevant for EEA member states, the normal interpretation in Bulgaria should be that "third country" for the purposes of the Act means countries that are not EU or EEA member states. However there are some indirect arguments that the term "third country" under the Act embraces any country (incl. EEA member states) that is not an EU member state. For example, the Act defines the term "third-country institution" as an institution established outside the EU, so arguably when there are other references to a "third country" (incl. in the rule transposing article 55 BRRD) it must similarly cover countries that are not EU member states. In other words, there is some risk that countries that are EEA members but are not EU member states (Iceland, Liechtenstein and Norway) be regarded as	Tsvetan Krumov (t.krumov@schoenherr.eu) Advokatsko druzhestvo Stoyanov & Tsekova in cooperation with Schoenherr Alabin 56 BG-1000 Sofia Bulgaria Tel.: +359 2 93310 90 Switchboard: +359 2 933 10 70	There is one particular point in relation to the impact of the Bulgarian implementation of the BRRD on the derivatives market that might be worthy of note[14]. It relates to the definition of a "netting arrangement" (under para.1, item 69 of the additional rules to the Act, implementing in Bulgaria art. 2, para. 1, item 98 of the BRRD) which refers to the "occurrence of an event whereby performance is required" as the event that triggers the netting arrangements operation. This wording restricts the eligible default events to only those events as a consequence of which "performance is required", i.e. acceleration takes place. In contrast, it is currently common for some typical netting arrangement default clause events to provide that, as a result of those events occurring, mutual obligations are terminated and replaced by one net obligation, with no mention of any acceleration in such clauses. Therefore, it is doubtful whether the Act would embrace such contractual provisions unless they expressly provide that, as a consequence of those events taking place, "performance is required".

12 This is obviously a result of a mistake. By way of comparison, other Bulgarian statutes transposing EU laws expressly define the term "third country" – e.g. the Credit Institutions Act, transposing in Bulgaria Directive 2002/87/EC, contains such definition.

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
									"third countries" for the purposes of the Act[13].		
Croatia	EU member state	Mostly implemented	26 February 2015 and 28 February 2015	26 February 2015 and 28 February 2015	The Act on Resolution of Credit Institutions and Investment Firms (*Zakon o sanaciji kreditnih institucija i investicijskih društava*) published in Official Gazette No. 19/2015 (the **Act on Resolution**). In addition, certain other legislation was also amended: • the Credit Institutions Act (*Izmjene i dopune Zakona o kreditnim institucijama*) published in Official Gazette No. 19/2015 • the Capital Markets Act (*Izmjene i dopune Zakona o tržištu kapitala*) published in Official Gazette No. 18/2015 Separately, a new Bankruptcy Act came into force on 1 September 2015. The secondary legislation in relation to this Act was passed during the entire September 2015 and the last 'package' of provisions came into force during the first half of October 2015.	The resolution authorities are: (1) the Croatian National Bank (*Hrvatska narodna banka*, the **HNB**) being the central bank of the Republic of Croatia and the supervisory authority responsible for credit institutions is responsible for the recovery of credit institutions and a group of credit institutions; (2) the Croatian Agency for Supervision of Financial Services (*Hrvatska agencija za nadzor financijskih usluga*, the **HANFA**) is responsible for the recovery of investment firms, a group of investment firms and a financial institution within HANFA's competence; and (3) the State Agency for Deposit Insurance and Bank Resolution (*Državna agencija za osiguranje štednih uloga i sanaciju banaka*, the **DAB**) is responsible for recovery of credit institutions, a group of credit institutions, investment firms, a group of investment	Safeguards under BRRD Articles 76 to 80 have been implemented by the Act on Resolution, Chapter XII. The specific articles are: • Article 76 BRRD implemented by Article 109 of the Act on Resolution; • Article 77 of the BRRD implemented by Article 110 of the Act on Resolution; • Article 78 of the BRRD implemented by Article 111 of the Act on Resolution; • Article 79 of the BRRD implemented by Article 112 of the Act on Resolution; and • Article 80 of the BRRD implemented by Article 113 of the Act on Resolution.	Article 33 provides that any natural or legal person has the right to challenge any decision of the DAB (the resolution, not by lodging an appeal, but by filing a claim to the competent administrative court ("Upravni sud")) within 30 days after the contested decision is received by such entity. Furthermore, the filing of the said claim does not suspend the decision of DAB and the relevant court may not suspend such decision. The competent (administrative) court has to deliver a decision within 30 days after the claim has been received by the said court. If the administrative court grants a decision that nullifies or partially nullifies any decision of the DAB, the effects of such decision will remain in force until the new decision replacing the successfully contested decision is delivered. DAB is	Article 55 of the BRRD is implemented by Article 79 of the Act on Resolution as follows: "(1) Institutions and entities referred to in Article 3 points 2, 3 and 4 of this Act are under obligation to ensure that the (relevant) contract includes contractual term of (the relevant) contract that liability arising out of such contract may be subject to the write-down or conversion and that the creditor or other contractual party agrees to be bound by any reduction of the principal or outstanding amount due, conversion or cancellation of such liability by the exercise of the bail-in. (2) Section 1 of this Article will apply provided that such liability: (a) is not excluded under Article 66(2) of this Act; (b) is not a part of deposit referred to in Article 274(4) of the Credit Institutions Act that are subject to the deposit insurance, but exceed the insured amount;	Marijana Jelić (marijana.jelic@law-office-jelic.hr) Jelić Law Office Zadarska 8 HR-10 000 Zagreb Croatia Tel.: +385 98 435 276	Mostly implemented, with the exception of the relevant implementing secondary legislation The authorities have a three year period beginning 28 February 2015 to pass the substantial part of the relevant implementing secondary legislation.

[14] For more details about problems around the BRRD implementing legislation in Bulgaria (focusing in particular on netting arrangements) please see a Schoenherr article, available at the following link: http://www.schoenherr.eu/knowledge/knowledge-detail/bulgaria-draft-law-implementing-brrd-needs-to-be-amended-to-provide-appropriate-protection-for-cl/

[13] Please note that the cited article was published before the entry into force of the Act - i.e. after the Parliamentary bill for the Act was adopted at first reading (session) and before the vote at second reading. Nevertheless all problems highlighted in the article remain relevant.
Such restriction may arguably be justified in as much as BRRD has not yet been incorporated into the EEA Agreement (as of 4 Jan 2016). Indeed "reorganization measures" for credit institutions under BRRD would normally be recognised throughout EEA under another piece of EU law applicable to EEA member states as well – that is, Directive 2001/24/EC. The problem however is that until EEA member states have adopted all BRRD rules there may be disputes as to whether a particular measure under BRRD constitutes "reorganization measure" for the purposes of Directive 2001/24/EC. So, only a transposing of BRRD would cast away such doubts, because art.117 BRRD incorporates an amendment to the definition of "reorganisation measures" (in art. 2 of Directive 2001/24/EC), by referring explicitly to the measures under BRRD. Further BRRD measures for investment firms (that are also covered by BRRD) were not subject to cross-border recognition (before BRRD). Such recognition would be possible only when EEA Members comply with art.117 BRRD – whereby art.1 of Directive 2001/24/EC must be amended to embrace not only credit institutions. Having said this, when BRRD is incorporated into the EEA Agreement, the Act must be clarified in a sense to exclude EEA member states from the scope of the term "third countries".

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
						firms and financial institutions (according to the competencies regulated by the Act on Resolution). The competent authority for credit institutions is the HNB, whereas for investment firms the competent authority is the HANFA.		entitled, upon receiving the decision of the administrative court, to impose measures necessary to reduce the damages that would have been imposed due to further application of the decision that has been nullified or declared as null and void. The compensation for damages will be paid from the resolution fund ("*sanacijski fond*").	(c) is governed by the law of a third country; and (d) came to existence after this Act had become effective. (3) Exceptionally, paragraph (1) hereunder will not apply where the Croatian National Bank, respectively Croatian Agency for Supervision of Financial Services, determines that the liabilities under paragraph (2) of this Article can be subject to write down or converted based on the (relevant) right of such third country or pursuant to a binding agreement concluded with that third country. (4) For the purposes of evaluation under paragraph (3) hereof, Croatian National Bank, respectively Croatian Agency for Supervision of Financial Services, may require institutions or entities referred to in Article 3 points 2, 3 or 4 hereof to provide such authorities with a legal opinion relating to the legal enforceability and effectiveness of the said term given in paragraph 2 of this Article pursuant to the law of such third country. (5) Regardless of the fact whether such agreement contains the provision given in this Article (or not), the State Agency for Deposit Insurance and Bank Resolution will exercise the write down and conversion of such liability."		

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
Cyprus	EU member state and member of the euro area	Fully implemented	This was enacted 22 March 2013, amended 17 May 2013, 30 August 2013 and 30 June 2014 under the Resolution of Credit and Other Institutions Law, as this has now been abolished, the provisions of the New Resolution Law was enacted on 18 March 2016.	This was enacted 22 March 2013, amended 17 May 2013, 30 August 2013 and 30 June 2014 under the Resolution of Credit and Other Institutions Law, as this has now been abolished, the provisions of the New Resolution Law which includes the bail-in provisions was enacted on 18 March 2016.	The Resolution of Credit Institutions and Investment Companies, Law N. 22(I)/2016	The resolution authority is the Central Bank of Cyprus. The competent supervisory authority is also the Central Bank of Cyprus.	Article 76 of the BRRD has been implemented by Section 78 of the New Resolution Law; Article 77 of the BRRD has been implemented by Section 79 of the New Resolution Law; Article 78 of the BRRD has been implemented by Section 80 of the New Resolution Law; Article 79 of the BRRD has been implemented by Section 81 of the New Resolution Law; and Article 80 of the BRRD has been implemented by Section 82 of the New Resolution Law.	Although the cornerstone principle of Article 77 has been adopted, how it has been implemented has not been expressly addressed by the New Resolution Law.	Article 55 has been implemented by Section 64 of the New Resolution Law.	Nancy Erotocritou (nancy.erotocritou@harneys.com) Pavlos Aristodemou (pavlos.aristodemou@harneys.com) Stephanie Havatzias (Stephanie.Havatzias@harneys.com) Harneys Aristodemou Loizides Yiolitis LLC Omrania Centre 313, 28th October Avenue 3105 Limassol Cyprus Tel.: +357 25 820020	The Resolution of Credit and Other Institutions Law of 2013 (as amended) (the **Resolution of Credit and Other Institutions Law**) has now been abolished and has been replaced by the Resolution of Credit Institutions and Investment Companies, Law N. 22(I)/2016 (the New **Resolution Law**) which fully implemented the BRRD.
Czech Republic	EU member state	Fully implemented	1 January 2016	1 January 2016	Act on Framework for the Recovery and Crisis Resolution on the Financial Market (*Zákon o ozdravných postupech a řešení krize na finančním trhu*) (the **Act**).	In both instances, the Czech National Bank (*Česká národní banka*).	Safeguards under BRRD Articles 76 to 80 are implemented primarily in Sections 171 – 173 of the Act on Framework for the Recovery and Crisis Resolution on the Financial Market.	The remedy for breach of Article 77 safeguard is contained in Sections 231 *et seq.* of the Act on Framework for the Recovery and Crisis Resolution on the Financial Market, which provide for the power of the Czech National Bank to issue various general or special remedial measures to rectify any breach of the applicable rules under the Act.	BRRD Article 55 is implemented in Sections 148 and 149 of the Act on Framework for the Recovery and Crisis Resolution on the Financial Market. On top of that, Section 122(1)(a) provides that, among other things, a liability capable of write-down means a debt of an obligor and a capital instrument issued by an obligor, except for a secured debt up to the amount of the security provided.	Petr Vybiral (petr.vybiral@allenovery.com) Allen & Overy (Czech Republic) LLP, organizační složka V Celnici 4 Prague 11000 Czech Republic Tel.: +44 20 3088 3934	
Denmark	EU member state	Fully implemented	1 June 2015 in relation to the Restructuring and Resolution Act, Act no. 334 and Executive	1 June 2015	Fully implemented primarily by Act no. 333 on the restructuring and resolution of certain financial businesses (*Lov om restrukturering og afvikling af visse finansielle virksomheder*) (the **Restructuring and Resolution Act**), and Act no. 334 of 31 March 2015 on the amendment of the Financial Business Act,	The Danish resolution authority for purposes of BRRD Article 3 is Financial Stability (*Finansiel Stabilitet*), which shares certain resolution authority tasks with the	Safeguards under BRRD Articles 76 to 80 have been implemented by Sections 36 – 40 of the Restructuring and Resolution Act.	Section 41 of the Restructuring and Resolution Act mandates delegated regulation on arrangements (contracts) covered	Article 55 is implemented in §274 of the amended Financial Business Act (Act no. 182 of 18.02.2015 as amended by the Act amending the Financial	Catherine Tholstrup (ckt@tholstrup-law.com) Catherine Tholstrup Advokatfirma Carolinevej 29 DK 2900 Hellerup	

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
			Order Number 724. 6 July 2015 in relation to Executive Order nr. 821.		Financial Stability Act etc. (*Lov om ændring af lov om finansiel virksomhed, lov om finansiel stabilitet, lov om en garantifond for indskydere og investorer, lov om værdipapirhandel m.v. og ligningsloven*). Executive Order number 724 of 27 May 2015 (replacing Executive Order number 284 of 27 March 2014) on recovery plans for banks, mortgage credit institutions and "broker dealers type I" (*Bekendtgørelse om genopretningsplaner for pengeinstitutter, realkreditinstitutter og fondsmæglerselskaber I*) Executive Order number 821 of 3 July 2015, on resolution planning and resolution preparation (*Bekendtgørelse om afviklingsplanlægning og afviklingsberedskab*). Executive Order number 822 of 3 July, 2015, on Resolution Tools (*Bekendtgørelse om afviklingsforanstaltninger*)	Danish Financial Supervisory Authority (*Finanstilsynet*) (the **Danish FSA**). The competent authority is the Danish FSA. Resolution authority tasks are shared between Financial Stability and the Danish FSA. This set-up is aimed at maintaining - as far as possible within the BRRD framework - the status quo.	Section 36 implements Article 77 and parts of Article 76. Section 37 implements parts of Article 76 and Article 78. Section 38 implements parts of Article 76 and Article 79. Section 39 implements parts of Articles 76-79. Section 40 implements parts of Article 76 and Article 80.	by, i.a., Section 36 of the Restructuring and Resolution Act (implementing Article 77). On the basis thereof, the Executive Order on Resolution Tools (of 3 July, 2015) provides (in Section 30) that Sections 36-38 of the Restructuring and Resolution Act do not entail an obligation for Financial Stability to continue contracts covered by the provisions, nor do they entail any guarantee from Financial Stability that such contracts will be carried on. Further, the provision states that in so far as such contracts are carried on, the duty of Financial Stability is only to ensure that this happens in accordance with Sections 36-38 of the Restructuring and Resolution Act, i.e., inter alia, that where such arrangements as are mentioned in Section 36 (Article 77) are carried on, partial transfers, and modification or termination, do not take place.	Business Act, the Financial Stability Act, the Act on a guarantee fund for account holders and investors, the Securities Trading Act and the Law of Assessment (act no. 334 of 31.03. 2015). The implementing provision applies to contracts entered into after 01.06.15.	Denmark Switchboard: +45 39 62 30 33 Mobile: + 45 50 10 48 14	
Estonia	EU member state and member of the euro area	Fully implemented	29 March 2015 (some amendments came into force on 10 January 2016).	29 March 2015[15]	The Financial Crisis Prevention and Resolution Act (*Finantskriisi ennetamise ja lahendamise seadus*). Consequential amendments were also required to related acts.	The resolution authority and the competent authority is the Financial Supervision Authority.	Safeguards under BRRD Articles 76 to 79 have been implemented by Article 44 of the Financial Crisis Prevention and Resolution Act. Safeguard under BRRD Article 80 has	The remedy for breach of Article 77 safeguard is: 1) Commence challenge proceedings and apply for a partial or full annulment of a decision of the	Article 55 BRRD has been implemented by Article 22 (named provision of bail-in power in agreements) of the Financial Crisis Prevention and Resolution Act. It stipulates that a credit	Reimo Hammerberg (reimo.hammerberg@sorainen.com) Kristina Promet (kristina.promet@sorainen.com) Sorainen Kawe Plaza, 7th floor Pärnu mnt 15 Tallinn 10141	

[15] The provision came into force 29 March 2015. However, credit institutions are required to bring their activities into compliance with the minimum requirement for own funds and eligible liabilities by 1 January 2016.

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
							been implemented by section 59-7 of the Financial Crisis Prevention and Resolution Act.	Financial Supervision Authority to apply a resolution tool or power. However, partial or full annulment of a decision of the Financial Supervision Authority to apply a resolution tool or power shall not affect the validity of transactions and acts performed in the resolution proceedings. 2) Make an application together with challenging the proceedings under subsection 1 above to the Financial Supervision Authority to take steps to remedy the breach. 3) Claim for compensation for loss, which is limited to the compensation for the direct proprietary loss.	institution or entity that is part of the same consolidation group as the credit institution is required to agree in the agreement to be entered into that the creditor or party to the agreement creating the liability recognises that: 1) the liability arising from the agreement may be subject to the write-down and conversion powers; 2) it agrees to be bound by any reduction, conversion or cancellation of the principal or outstanding amount due of the liability in resolution proceedings. The above does not apply: 1) to deposits that are satisfied as claims in the first priority ranking in the bankruptcy proceedings (in accordance with Article 131-1 of the Credit Institutions Act); 2) if the write down and conversion powers have been provided pursuant to the law of the third country or to an international agreement entered into with that third country; and 3) to liabilities provided for in Article 71-1 of the Financial Crisis Prevention and Resolution Act. Furthermore, the Financial Supervision Authority (resolution authority and competent authority) may require	Estonia Direct Tel.: +372 6 400 958 Switchboard: +372 6 400 900	

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
									the credit institution or entity that is part of the same consolidation group as the credit institution to provide an independent legal opinion relating to the enforceability and validity of the agreement including a term concerning the write down and conversion powers. If a credit institution or entity that is part of the same consolidation group as the credit institution fails to meet the requirements provided for above, that failure must not prevent the Financial Supervision Authority from applying the bail-in tool in relation to those liabilities.		
Finland	EU member state and member of the euro area	Fully implemented	1 January 2015	1 January 2016	Principally, the Act on Procedure for the Resolution of Credit Institutions and Investment Firms (*laki luottolaitosten ja sijoituspalveluyritysten kriisinratkaisusta*, 1194/2014). Additional implementing legislation: Act on the Financial Stability Authority (*laki rahoitusvakausviranomaisesta*, 1195/2015), amendments to the Act on Financial Supervisory Authority (*laki Finanssivalvonnasta*, 878/2008), the Act on Credit Institutions (*laki luottolaitostoiminnasta*, 619/2014) (and relevant specific banking laws) and the Act on Investment Services (*sijoituspalvelulaki*, 747/2012).	For the purposes of BRRD Article 3, the relevant competent authority is the Resolution Authority (*rahoitusvakausviranomaien*). For the purposes of BRRD Art 2(1)(21), the competent authority is the Finnish Financial Supervisory Authority (*Finanssivalvonta*) (the **FIN-FSA**).	Safeguards under BRRD Articles 76 to 80 have been implemented by the Act on Procedure for the Resolution of Credit Institutions and Investment Firms (principally Chapter 13).	Pursuant to Chapter 13 Section 4 of the Act on Procedure for the Resolution of Credit Institutions and Investment Firms, the Resolution Authority may not transfer assets or liabilities of an institution with the effect that only some but not all assets or liabilities under financial collateral arrangement, set-off or netting are transferred to a third person (para. 1). The Resolution Authority may not modify or terminate rights, assets or liabilities protected by means of the arrangement set out in para 1 through the use of ancillary powers (para . 2).	Article 55 implementation entered into force on 1 July 2015 by means of Section 12 a of Chapter 8 of the Act on Procedure for the Resolution of Credit Institutions and Investment Firms (*laki luottolaitosten ja sijoituspalveluyritysten kriisinratkaisusta*, 1194/2014).	Jari Tukiainen (jari.tukiainen@hannessnellman.com) Hannes Snellman Attorneys Ltd Eteläesplanadi 20 P.O.Box 333 00130 / 00131 Helsinki Finland Tel.: +358 9 2288 4215 Switchboard: +358 9 228 841	In connection with the implementation of the BRRD, Finland also implemented the Deposit Protection Directive (2014/49/EC) and the agreement on the transfer and mutualisation of contributions to a single resolution fund (8457/2014).

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
								Assets, rights and liabilities are protected within the meaning of para 1 if the parties have a right to exercise set-off or netting [in respect of assets, rights or liabilities] (para. 3). Chapter 13 Section 4 implements an exemption from the above protection in accordance with Article 77(2).			
France	EU member state and member of the euro area.	Mostly implemented	Entry into force of the SRAB Law and Ordinance DALUF	1 January 2016	Mostly implemented under existing legislation: Law no. 2013-672 dated 26 July 2013 on separation and regulation of banking activities (*Loi no. 2013-672 du 26 juillet 2013 de séparation et de regulation des activités bancaires* (the **SRAB Law**)) and Ordinance no.2015-1024 dated 20 August 2015 implementing various provisions of the law of the European Union in financial matters (*Ordonnance n°2015-1024 du 20 aout 2015 portant diverses dispositions d'adaptation de la législation au droit de l'Union européenne en matière financière* (the **Ordinance DALUF**)). The French implementing legislation currently includes: • Decree no. 2015-1160 dated 17 September 2015 implementing various provisions of the law of the European Union in financial matters (*Décret n°2015-1160 du 17 septembre 205 portant diverses dispositions d'adaptation de la législation au droit de l'Union européenne en matière financière)* and three *arrêtés dated 11 September 2015* implementing section a, B and C of the annex of the BRRD; • the Ordinance DALUF which amends and supplements the SRAB Law; • Law no. 2014-1662 dated 30 December 2014 implementing various provisions of the law of the European Union in economic and financial matters (*La loi no. 2014-1662 du 30 décembre 2014 portant diverses dispositions*	The resolution authority and the competent authority is the French Prudential Supervisory Authority (*L'Autorité de contrôle prudentiel et de resolution*, the **ACPR**).	Articles L.613-57 to L.613-57-2 (a new Paragraph 3 in Sub-Section 10, Section 4, Chapter III, Title I, Book VI) of the French Monetary and Financial Code implemented by the Ordinance DALUF	The remedies for breach of Article 77 safeguard are not described in any provision of the French Monetary and Financial Code at this stage.	Article L. 613-55-13 of the French monetary and financial Code as implemented by Ordinance no.2015-1024 dated 20 August 2015 implementing various provisions of the law of the European Union in financial matters *(Ordonnance n°2015-1024 of 20 August 2015 portant diverses dispositions d'adaptation de la législation au droit de l'Union européenne en matière financière*).	Hervé Ekué (herve.ekue@allenovery.com) Clément Saudo (clement.saudo@allenovery.com) Delphine Marchand-Sauri (delphine.marchand-sauri@allenovery.com) Allen & Overy LLP 52 avenue Hoche Paris 75008 France Tel. Delphine: +33 1 40065520 Tel. Clément: +33 1 40065328 Tel. Hervé: +33 1 40065359	First, Article L. 613-55-13 of the French monetary and financial code (the **MFC**) provides that the institutions and entities [within the scope of this provision] cannot enter into an agreement creating a liability which does not contain a provision pursuant to which the counterparty recognises that the liability may be subject to the write-down and conversion powers. Secondly, the scope of application of Article L613-55-13 of the MFC differs from the scope of Article 55 regarding excluded liabilities (i.e. under article 44, paragraph 2 of BRRD). Indeed, pursuant to Article L613-55-13 of the MFC, the excluded liabilities are those described under paragraph II of Article L613-55-1 of the MFC, whereas they should be as described under paragraph I of this Article in order to be in line with BRRD. Under the current drafting the exclusion is therefore more limited.

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
					d'adaptation de la législation au droit de l'Union européenne en matière économique et financière); • Communication dated 21 July 2014 on the Resolution Strategy of ACPR Resolution Board (*La Communication de l'ACPR du 21 juillet 2014 reprenant sa stratégie quant au collège de résolution*); • Decree no. 2013-978 dated 30 October 2013 on the establishment of the banking resolution regime (*Le décret no. 2013-978 du 30 octobre 2013 relatif à la mise en place du régime de résolution bancaire*); and • the SRAB Law.						
Germany	EU member state and member of the euro area	Fully implemented	1 January 2015	1 January 2015	The BRRD Implementation Act (*BRRD–Umsetzungsgesetz*) (the **Act**). The Act established the Recovery and Resolution Act (*Sanierungs- und Abwicklungsgesetz*-SAG), and amended the following statutes: • the German Banking Act (*Kreditwesengesetz*); • the Restructuring Fund Act (*Restrukturierungsfondsgesetz*); • the Covered Bond Act (*Pfandbriefgesetz*); • the Financial Markets Stabilisation Fund Act (*Finanzmarktstabilisierungsfondsgesetz*); • the Credit Institutions Reorganisation Act (*Kreditinstitute-Reorganisationsgesetz*); and • the Financial Market Stabilisation Fund Regulation (*Finanzmarktstabilisierungsfonds-Verordnung*).	The resolution authority is the Federal Agency for Financial Market Stabilisation (*Bundesanstalt für Finanzmarktstabilisierung – FMSA*). The competent authority is the Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht – BaFin*) or the European Central Bank (the **ECB**), as the case may be.	Safeguards under BRRD Articles 76 to 80 have been implemented by the Recovery and Resolution Act (*Sanierungs- und Abwicklungsgesetz* - **SAG**), primarily in section 110 and section 79. Section 110 (1) SAG – in line with Article 77 BRRD – requires that assets are transferred with any collateral agreed for these assets.	There are good arguments that a transfer of collateral in breach of Article 77 (section 110 SAG) would not have any legal effects, as German law generally makes a distinction between what one may (not) do and what one can (not) do. However, it is somewhat unclear whether the legislator had this distinction in mind. Therefore, it cannot be excluded that under German law a transfer of assets could validly be effected without the transfer of the respective collateral. Should a transfer of assets be possible without the respective collateral, only the general remedies available for resolution measures would be available. Thereunder, it is not possible to claim the unwinding of any effective legal transfer, but only claim compensation	The Act introduced the SAG. Sec. 55(1)-(4) SAG implement Article 55 BRRD, while Sec. 55(5)-(6) SAG implement Article 59 para. 2 BRRD (which provides for an analogous requirement with regard to regulatory capital instruments).	Kai Schaffelhuber (kai.schaffelhuber@allenovery.com) Martin Scharnke (martin.scharnke@allenovery.com) Laura Druckenbrodt (Laura.Druckenbrodt@AllenOvery.com) Allen & Overy LLP Bockenheimer Landstraße 2 Frankfurt am Main 60306 Germany Tel. Kai: +49 69 2648 5324 Tel. Martin: +49 69 2648 5835 Tel. Laura: +49 69 2648 5373	When implementing the BRRD, the German legislator did not fully repeal the rules on bank restructuring applicable in Germany prior to the implementation of the BRRD. It upheld some of the rules and proceedings already enacted in 2011, exceeding the harmonised framework of the BRRD. Furthermore, the terminology used by the German legislator when implementing the BRRD partially deviates from the terminology of the BRRD. It yet remains to be seen if and to what extent this might impact on construction. The German legislator takes the view that it has fully implemented the BRRD in Germany via the BRRD Implementation Act (BRRD-*Umsetzungsgesetz*). This act was adopted on 10 December 2014 and had effects on several laws. It has been in force since 1 January 2015. However, certain provisions will be modified by the "Resolution Mechanism Act" (the **RMA**) (*Abwicklungsmechanismusgesetz*). The primary purpose of the RMA is to harmonise the German provisions implementing the BRRD with the provisions of the single resolution mechanism (**SRM**). The RMA exceeds the harmonised recovery and resolution framework of the BRRD and SRM, in particular with regard to

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
								for suffered disadvantages (*Nachteilsausgleich*).			(i) a rule on contractual recognition, (ii) a rule on the subordination of certain senior unsecured debt, and (iii) a clarification with regard to the bail-in treatment of liabilities under any framework netting agreements other than those for derivatives. As modified by the RMA the SAG provides that German institutions (and German institutions being part of a group) are obliged to expressly provide in financial contracts for contractual recognition of powers granted to resolution authorities to temporarily suspend certain rights (including termination rights). The obligation applies if: (i) the contract is subject to the law of a "third country" (i.e. a country outside the EU); or (ii) if the place of jurisdiction for the contract is in a "third country". It will generally not affect obligations created prior to 1 January 2016. Secondly, the RMA amends the insolvency waterfall to factually subordinate certain unsecured debt issued by German CRR institutions. It adds a new (factually subordinated) layer between the existing subordination layers and the general layer of unsecured debt. This new layer will be satisfied prior to any explicitly subordinated debt, but after general unsecured debt. The provision will enter into force on 1 January 2017. "Subordination" will (then) – according to the Government's intention – have retrospective effect. It will therefore also affect instruments issued before the entry into force of the act, and not only newly issued debt instruments. The affected debt instruments include (α) bearer bonds and bonds made out to orders; (β) debt instruments comparable to those under (α) that are negotiable in the capital markets; (γ) registered bonds (*Namensschuldverschreibungen*); and (δ) certificates of indebtedness (*Schuldscheine*) unless they qualify as a covered deposit (i.e. deposit eligible for deposit protection within the coverage level) or eligible deposit (i.e. deposit generally eligible for protection in a deposit guarantee

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
											scheme). Money market instruments and debt instruments issued by public law institutions that are not subject to insolvency law are explicitly excluded from that subordination. Further, the "subordination" does not apply to debt instruments for which: (i) the redemption or redemption amount is contingent on the occurrence or non-occurrence of an event that is uncertain at the issue date of the relevant instrument or that settlement shall be effected in a manner other than by cash payment; or (ii) the interest payment or interest amount is contingent on the occurrence or non-occurrence of an event that is uncertain at the issue date of the relevant debt instrument, unless the interest payment or interest amount is contingent solely on a fixed or floating reference interest rate and settlement will be effected by cash payment (i.e., structured products). This is likely to exempt all of the securities with built-in derivatives (commonly called "certificates" – *Zertifikate*) issued by German banks from subordination. Finally, the RMA modifies the transposition of articles 49(2)-(4) BRRD (sec. 93(5) SAG) so as to apply to any and all financial obligations within the ambit of Section 104(2) of the German Insolvency Act (*Insolvenzordnung – InsO*) that have been entered into under any framework netting agreements. This remedies certain concerns that had been raised with regard to how indebtedness under securities lending transactions will be treated in a bail-in scenario.
Gibraltar	Gibraltar forms part of the EU by virtue of its relationship with the UK, although it legislates separately	Fully implemented	1 January 2015	1 January 2015	The Financial Services (Recovery and Resolutions) Regulations 2014 (the **Regulations**)	The resolution authority is the Financial Secretary and the competent authority is the Financial Services Commission of Gibraltar.	Safeguards under BRRD Articles 76 to 80 have been implemented by regulations 78, 79, 80, 81 and 82 of the Regulations.	The remedy for breach of Article 77 safeguard is currently being determined, but no information regarding this has yet been officially published.	Article 55 of BRRD, (contractual recognition of bail-in) has been transposed into Regulation 57 of the Regulations and Regulation 57(5) states that this regulation shall be applied in accordance with any regulatory technical standards adopted under Article 55(3) of BRRD.	Yvonne Chu-Feetham (yvonne.feetham@hassans.gi) Nigel Feetham (nigel.feetham@hassans.gi) Hassans International Law Firm 57/63 Line Wall Road PO Box 199 Gibraltar Switchboard: +350 200 79000	Consequential amendments as a result of the implementation of BRRD to other pieces of legislation in Gibraltar have now been implemented. Sections 34 and 35 of the Credit Institutions (Reorganisation and Winding-up) Act 2005 were revised as a result of the implementation of the Regulations. Section 3 of the Financial Collateral Arrangements Act 2004 was also revised and extended to include sub-sections (8) and (9). Finally Regulation 76 of the Financial

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
											Services (Capital Requirements Directive IV) Regulations 2013 was also revised as a result of BRRD. These amendments came into effect on 1 January 2015.
Greece	EU member state and member of the euro area	Fully implemented	23 July 2015	1 January 2016. Partial application from 1 November 2015	Law 4335/2015, as amended by law 4340/2015 and 4346/2015	The resolution authority is the Bank of Greece or the Single Resolution Board. In relation to investment firms the resolution authority is the Hellenic Capital Market Commission. The competent authority is the Bank of Greece or the European Central Bank and in relation to investment firms, the Hellenic Capital Market Commission.	Articles 76-80 of the second part of law 4335/2015.	No specific remedy for breach of Article 77 safeguard is provided for in law 4335/2015. Therefore, the generally applicable provision of Article 110 of the second part of law 4335/2015 (transposing Article 85 of the Directive) as well as generally applicable provisions of Greek law apply. A party claiming Article 77 may ask the resolution authority to revoke or amend its decision (Article 24 of the Code of Administrative Procedure). Such party may also seek the annulment of the decision of the resolution authority, but this shall not affect the rights of any party who acquired assets in good faith. A party suffering a loss from a decision made in breach of Article 77 may also seek compensation from the resolution authority.	Article 55 has been transposed in Article 55 of the second part of law 4335/2015.	Alexander Metallinos (a.metallinos@karatza-partners.gr) Karatzas & Partners Koumpari 8 106 74 Athens Greece Switchboard: +30 210 371 3600	Law 4335/2015 amended the Banking Law (law 4261/2014) to amend the ranking of claims in case of special liquidation of a credit institution. In doing so it complied with article 108 of the BRRD, but in addition to that it provided that the part of eligible deposits that exceed the coverage level provided in the deposit guarantee directive and are not deposits of natural persons and micro-, small- and medium sized enterprises rank below eligible deposits from natural persons and micro-, small- and medium-sized enterprises, but above other unsecured, non-preferred creditors.
Hungary	EU member state	Fully implemented	The non-bail-in provisions of the implementing legislation came into force in two steps: certain provisions on 21 July 2014 and others on	The bail-in provisions came into force on 16 September 2014 (see column 6).	**Primary Legislation:** Act XXXVII of 2014 on the improvement of the institutions strengthening the security of certain financial intermediaries (the **Resolution Act**) — **21 July 2014** and **16 September 2014** Act CIV of 2014 on the amendments to certain — **1 January 2015**	Both the resolution authority and the competent authority are the National Bank of Hungary (*Magyar Nemzeti Bank*) (the **NBH**).	Safeguards under BRRD Articles 76 to 80 have been implemented by sections 99 to 103 of the Resolution Act (as amended by the Amending Act).	The remedy for breach of Article 77 safeguard is that the respective counterparties of the institution under resolution may turn to the courts to appeal against a decision of the resolution authority	Article 55 of the BRRD has been implemented by section 72 of the Resolution Act	Zoltan Lengyel (zoltan.lengyel@allenovery.com) Georgina Koza (georgina.koza@allenovery.com) Morley Allen & Overy Iroda Madách Trade Center Madách Imre út 13-14 Budapest H-1075	(a) ECB notification and comments The Resolution Act and the NBH Decree have both been notified to the ECB. However, the Resolution Act had been adopted by the Hungarian Parliament before the ECB commented on the draft. The ECB had a number of comments on the Resolution Act concerning: (i) the

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation		Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
			16 September 2014 (see column 6").		financial acts in relation to deposit insurance and financial intermediaries (the **Amending Act**)				which is in breach.		Hungary Tel.: +36 1 429 6000	independence of the NBH; (ii) the funding of the resolution fund; (iii) cooperation with the ECB; (iv) operational separation of the NBH's supervisory and resolution functions; (v) independent valuation; and (vi) legal remedies. The ECB pointed out that the rules of the sale of a business tool in the Resolution Act are not fully compliant with the BRRD as the BRRD also grants resolution authorities the power to decide on the timing for the potential application of the sale of a business tool, without linking it to the unsuccessful application of intervention measures (as foreseen by the Resolution Act). The ECB also pointed out an inconsistency of the Resolution Act in relation to depositor preference rules. We understand that this inconsistency has been remedied in the meantime by the Amendment Act. (b) The application of the Resolution Act The NBH has already applied the Resolution Act and ordered the resolution of MKB Bank Zrt. (**MKB**), a former Bayerische Landesbank subsidiary currently owned by the Hungarian State (and controlled by the NBH itself). Certain market players were questioning whether the conditions of issuing a resolution order have been met (and especially as to whether or not MKB was likely to fail), arguing that the resolution order was issued solely to facilitate the sale of MKB's NPL portfolio. (c) Strategic Entities Certain specific issues may arise in case of the insolvency of a 'too-big-to-fail' entity. Under certain conditions the government of Hungary may designate an entity as a strategic
					Act CXXXIX of 2013 on the National Bank of Hungary (the **NBH Act**)	BRRD-related amendments: **21 July 2014**; **16 September 2014** and **1 January 2015**						
					Act LXXXV of 2015 on the amendment of certain acts for promoting the development of the financial intermediary system	**7 July 2015**						
					Act CCXXXVII of 2013 on credit institutions and financial enterprises (the **Banking Act**)	BRRD-related amendments: **21 July 2014**; **16 September 2014** and **1 January 2015**						
					Act CXXXVIII of 2007 on investment firms, commodity dealers, and on the regulations governing their activities	BRRD-related amendments: **16 September 2014**						
					Act CIV of 2008 on the strengthening of the stability of financial intermediary systems	BRRD-related amendments: **21 July 2014**						
					Act CXCIV of 2011 on the economic stability of Hungary	BRRD-related amendments: **21 July 2014**						
					Act XLIX of 1991 on bankruptcy and insolvent liquidation proceedings	BRRD-related amendments: **16 September 2014**						
					Act XCIII of 1990 on stamp duties	BRRD-related						

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation		Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
						amendments: **16 September 2014**						entity on a case-by-case basis (the **Strategic Entity**). The Strategic Entities are subject to a special insolvency regime (for example, only publicly owned entities are eligible to act as liquidators). A Strategic Entity may be entitled to an automatic moratorium in the course of its liquidation. The safeguards in relation to security arrangements may not be applicable in case of the insolvency of a Strategic Entity.
					Act C of 1990 on local taxes	BRRD-related amendments: **16 September 2014**						
					Act LXXXI of 1996 on company and dividend taxes	BRRD-related amendments: **16 September 2014**						
					Secondary Legislation:							
					Govt. Decree 217/2014. (VIII. 28.) on reorganisation plans related to bail-ins	**16 September 2014**						
					Govt. Decree 363/2014. (XII. 30.) on deductible costs arising in relation to resolution measures	**2 January 2015**						
					NBH Decree 59/2014. (XII. 19.) on the numeric criteria for the purposes of assessing whether a credit institution or an investment firm qualifies as failing or likely to fail	**18 January 2015**						
Iceland	EEA member state	Not yet implemented	Not yet known	Not yet known	Not yet known		In both cases, likely to be the Icelandic Financial Supervisory Authority (the **FME**).	Not yet known	Not yet known	Not yet known	Guðbjörg Helga Hjartardóttir (gudbjorg@logos.is) Logos Legal Services Efstaleiti 5 103 Reykjavík Iceland Switchboard: + 354 5 400 300	As an EEA member state, Iceland is not yet required to implement the BRRD. See note on cover page. A committee appointed by the Ministry of Finance and Economic Affairs (the **Committee**) is currently drafting a bill implementing the BRRD.
Ireland	EU member state and member of the euro area	Fully implemented	15 July 2015	1 January 2016	European Union (Bank Recovery and Resolution) Regulations 2015 (Statutory Instrument No. 289 of 2015), as amended (as so amended, the **Regulation**). European Union (Bank Recovery and Resolution) Resolution Fund Levy Regulations 2015 (Statutory Instrument No 522 of 2015).		The national resolution authority is the Central Bank of Ireland. The competent authority is the Central Bank of Ireland or, with regard to the specific tasks conferred on it by Council Regulation (EU) No. 1024/2013, the European Central Bank.	Safeguards under BRRD Articles 76 to 80 have been implemented by Regulations 136 to 142 of the Regulation.	Article 77 is transposed by Regulation 138 of the Regulation pursuant to which, if there is a partial property transfer or modification of contracts where there is an existing set-off	Article 55 has been transposed by Regulation 94 of the Regulation. No supplementary/supporting rules/regulations have been published.	Judith Lawless (judith.lawless@mccannfitzgerald.ie) McCann FitzGerald Riverside One Sir John Rogerson's Quay Dublin 2 Ireland	Ireland made the European Union (Single Resolution Mechanism) Regulations 2015 (Statutory Instrument No. 568 of 2015) for the purpose of giving full effect to the SRM Regulation (Regulation (EU) No. 806/2014) which, along with other measures including certain provisions of the Finance (Miscellaneous Provisions) Act 2015, are intended to

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
					European Union (Bank Recovery and Resolution) Resolution Fund Levy Regulations 2016 (Statutory Instrument No 202 of 2016).			arrangement, netting arrangement or title transfer financial collateral arrangement, each as defined in the Regulation, reflecting the terms of BRRD (each an "**arrangement**") between the institution under resolution and another person, then: • the transfer shall not operate to transfer some, but not all, of the rights and liabilities under an arrangement; • a modification of contracts in respect of an arrangement shall not be permitted, save that, where it is necessary in order to ensure availability of covered deposits (as defined in the Regulations, and reflecting the terms of BRRD), a resolution order may transfer covered deposits which are part of an arrangement without transferring other assets, rights or liabilities that are part of the same arrangement or those assets, rights or liabilities may be transferred, modified or terminated without transferring the covered deposits.		Direct Tel.: +353 1 607 1256 Switchboard: +353 1 829 0000	give full force and effect in Ireland to the SRM Regulation and the Agreement on the Transfer and Mutualisation of Contributions to the Single Resolution Fund done at Brussels on 21 May 2014.

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
Italy	EU member state and member of the euro area	Fully implemented	16 November 2015 Provisions in relation to "depositor preference" in respect of deposits other than those protected by the deposit guarantee scheme and those of individuals and SMEs will apply from 1 January 2019.	1 January 2016	Legislative Decree No. 180/2015 is a stand-alone law that implements the BRRD (the **Implementing Decree**). Legislative Decree No. 181/2015 amends the Italian Banking Law and deals with recovery plans, early intervention and changes to the creditor hierarchy (the **Amending Decree**).	Bank of Italy	The safeguards contained in Articles 76-80 of BRRD are implemented in Articles 90-94 of Legislative Decree No. 180 of 2015.	Article 91 of Decree 180 prohibits the modification or extinction of only a portion of the rights and liabilities subject to set-off or netting under a financial collateral arrangement or netting agreement, as well as the extinction or modification of a portion only of such rights and liabilities. We also mention that a limitation introduced on statutory rights of set-off that apply in bankruptcy is expressed not to have any effect where an agreement for netting, set-off or title transfer collateral is in place. No remedies are foreseen for breach of the safeguards set forth in Article 91.	Italian implementation (Article 59 of Legislative Decree No. 180 of 2015) follows closely the text of the BRRD, but provides that a clause recognising the impact of bail-in will be considered in any case to have been inserted in the contract by operation of law, even in substitution of contrary provisions which may be agreed to by the parties, with no indemnity being due to the counterparty. Article 59 also provides that write-down and conversion powers may be exercised in the absence of a contractual recognition provision, or in the event that such contractual recognition provision is unenforceable for any reason.	Lisa Curran (lisa.curran@allenovery.com) Allen & Overy Studio Legale Associato Corso Vittorio Emanuele II 284 Rome 00186 Italy Tel.: +39 06 6842 7537	The changes to the creditor hierarchy under the Implementing Decree (intended to limit contagion to the "real economy" and additionally to solve total loss absorbing capacity (TLAC) issues posed by the Financial Stability Board (the FSB)) bump up depositors as per Article 108 of the BRRD and then introduce a new, but lower, preference for all other deposits (i.e. large corporates and interbank). Although the Amending Decree correctly implements the provisions of the BRRD in relation to derivatives (for example in relation to a 24-hour stay on termination and collateral enforcement provisions), it also includes provisions purporting to restrict rights of set-off. However, following comments submitted on behalf of ISDA to the Ministry of Economy and Finance, these limitations will not apply in the presence of an agreement for netting or set-off or financial collateral arrangement.
Latvia	EU member state and member of the euro area	Partially implemented	16 July 2015	16 July 2015	Law on Recovery and Resolution of Credit Institutions and Investment Firms (*Kredītiestāžu un ieguldījumu brokeru sabiedrību darbības atjaunošanas un noregulējuma likums*) (the **Law**).	The resolution authority and the competent authority is the Financial Capital and Market Commission (**FCMC**).	Article 98 of the Law implements Article 76 of the BRRD (safeguard for counterparties in partial transfers). Article 99 of the Law implements Article 77 of the BRRD (protection for financial collateral, set-off and netting agreements). Article 100 of the Law implements Article 78 of the BRRD (protection for security arrangements). Article 101 of the Law implements Article 79 of the	The remedy for breach of Article 77 safeguard is not specified in the Law.	Article 55 of the BRRD is implemented in Article 76 of the Law with the exception that the third sentence of paragraph 1 of Article 55 of BRRD has not been implemented in Latvia (i.e. the right of the resolution authority to require to institutions and entities referred to in points (b), (c) and (d) of Article 1(1) of the BRRD to provide authorities with legal opinion relating to enforceability and effectiveness on contractual recognition of bail-in).	Rūdolfs Eņģelis (rudolfs.engelis@sorainen.com) Martinš Rudzitis (martins.rudzitis@sorainen.com) Sorainen Valdemara Centre 4th Floor Kr. Valdemara 21 Riga LV-1010 Latvia Direct Tel.: +371 67 686 794 Switchboard: +371 67 365 000	According to the Law, the FCMC has delegated powers to adopt several regulations, not related to safeguarding set-off, close-out netting and financial collateral arrangements. The first drafts of the FCMC regulations are under preparation, but are not yet publicly available.

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
							BRRD (protection for structured finance arrangements and covered bonds). Article 102 of the Law implements Article 80 of the BRRD (partial transfers: protection of trading, clearing and settlement systems).				
Liechtenstein	EEA member state	Not yet implemented	Not yet known	Not yet known	*Gesetz zur Sanierung und Abwicklung von Banken und Wertpapierfirmen*, ***SAG*** (Law on Recovery and Resolution of Banks and Investment Firms)	The draft bill designates the Liechtenstein Financial Markets Authority (*Finanzmarktaufsicht*, **FMA**) as the national resolution authority but this has apparently been criticised by some participants in the public consultation. Consequently, this may yet be changed in the implementation process. The competent authority will also be the FMA.	Safeguards pursuant to Art. 76 to 80 of the BRRD have been implemented in the draft SAG by Artt. 95 to 99.	According to Art. 104 of the draft SAG the affected party may seek redress against the decision of the resolution authority by appeal to the *FMA-Beschwerdekommission*. The decision by the *FMA-Beschwerdekommission* may be appealed to the Administrative Court.	Art. 74 of the draft SAG implements Art. 55 of the BRRD. It essentially adopts the wording of the German version of Art. 55 BRRD.	Sonja Schwaighofer (sonja.schwaighofer@marxerpartner.com) Marxer & Partner Rechtsanwälte Heiligkreuz 6 9490 Vaduz Liechtenstein Direct Tel.: +423 235 8173 Switchboard: +423 235 8181	As an EEA member state, Liechtenstein is not yet required to implement the BRRD. See note on the cover page. On 23 February 2016 Liechtenstein's government issued a draft implementation bill for public consultation. The consultation period ended on 8 April 2016. It is expected that the government will introduce the bill in parliament before the summer. In the course of the implementation of the BRRD, legal provisions relevant to the effectiveness of close-out netting (in particular Art. 33 (4) Bankruptcy Code) will be amended in order to address existing deficiencies. In a press release dated 21 October 2015 several experts met to discuss current regulator projects in the area of netting legislation. Of particular relevance from a derivatives perspective are the steps outlined by the Liechtenstein authorities which aim at reflecting points raised in previous discussions. The draft bill incorporates clarifying amendments to various provisions of existing legislation that will be enacted in parallel to the SAG.
Lithuania	EU member state and member of the euro area	Fully implemented	3 December 2015	3 December 2015	BRRD is implemented by recasting and amending the following legislation: • the Law on Financial Sustainability (*Finansinio tvarumo įstatymas*) (the **Law on FS**); • the Law on Insurance of Deposits and Liabilities to *Investors* (*Indėlių ir įsipareigojimų investuotojams draudimo įstatymas*);	The resolution authority and the competent authority is the Supervisory Service of the Bank of Lithuania.	Article 91 of the Law on FS implements Article 76 of the BRRD (safeguard for counterparties in partial transfers). Articles 91 and 92 of the Law on FS implement Article 77 of the BRRD	The remedy for breach of Article 77 safeguard is not specified in the Law on FS or other laws implementing the BRRD.	Article 87 of the Law on FS fully implements Article 55 of the BRRD (contractual recognition of bail-in).	Tomas.Kontautas (tomas.kontautas@sorainen.com) Lina Ragainytė (lina.ragainyte@sorainen.com) Agnė Sovaitė (agne.sovaite@sorainen.com) Sorainen	The BoL has adopted the resolutions stating that when performing its functions the resolution authority must follow the following guidelines issued by the European Banking Authority (**EBA**): • Guidelines on the application of simplified obligations (EBA/GL/2015/16); • Guidelines on tests, reviews or exercises that may lead to

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
					• the Law on Banks (*Bankų įstatymas*); • the Law on Bank of Lithuania (*Lietuvos banko įstatymas*); • the Law on Credit Unions (*Kredito unijų įstatymas*); • the Law on Financial Institutions (*Finansų įstaigų įstatymas*); and • the Law on Markets in Financial Instruments (*Finansinių priemonių rinkų įstatymas*). Also note that some other laws (e.g. the Law on Financial Collateral Arrangements, the Law on Securities, the Law on Collective Investment Undertakings, the Civil Code, Civil Procedural Code, Lithuanian Company Law, the Enterprise Bankruptcy Law, etc) are also amended but only to the extent required due to the changes of the aforesaid laws. Articles 3(3), 5(5), 11(1), 15(2). 16(2) and A, B and C sections of the Annex of the BRRD are fully implemented in the regulations adopted by the Bank of Lithuania (**BoL**).		(protection for financial collateral, set-off and netting agreements). Articles 91 and 93 of the Law on FS implement Article 78 of the BRRD (protection for security arrangements). Articles 91 and 94 of the Law on FS implement Article 79 of the BRRD (protection for structured finance arrangements and covered bonds). Article 95 of the Law on FS implements Article 80 of the BRRD (partial transfers: protection of trading, clearing and settlement systems).			Business centre 2000, 7th floor Jogailos 4 Vilnius LT-01116 Lithuania Direct Tel.: +370 52 649 376 Switchboard: +370 52 685 040	support measures (EBA/GL/2014/09); • Guidelines on the range of scenarios to be used in recovery plans (EBA/GL/2014/06); • Guidelines on recovery plan indicators (EBA/GL/2015/02); • GL specifying the conditions for group financial support (EBA/GL/2015/17); • Guidelines on triggers for use of early intervention measures (EBA/GL/2015/03); • Guidelines on failing or likely to fail (EBA/GL/2015/07); • Guidelines on business reorganisation plans (EBA/GL/2015/21); • Guidelines on DGS payment commitments (EBA/GL/2015/09).
Luxembourg	EU member state and member of the euro area	Fully implemented	The provision other than bail-in of the BRR Act 2015 came into force on 27 December 2015 (three days following its publication on the Official Journal of the Grand-Duchy of Luxembourg)	The bail-in provisions came into force on 1 January 2016.	*Loi du 18 décembre 2015 relative à la défaillance des établissements de crédit et de certaines entreprises d'investissement* The Luxembourg act dated 18 December 2015 was officially published on 24 December 2015 in the Luxembourg Memorial A (No. 246) of the Official Journal of the Grand-Duchy of Luxembourg (page 6000) (the **BRR Act 2015**). The relevant provisions are implemented in the following Luxembourg laws: – the Luxembourg act dated 5 April 1993 on the financial sector, as amended; – the Luxembourg act dated 23 December 1998 creating the *Commission de surveillance du secteur financier*, as amended; – the Luxembourg act dated 5 August 2005 on financial collateral arrangements, as amended; – the Luxembourg act dated 19 May 2006 on public takeover bids; and	Under the BRR Act 2015 the competent authority is the *Commission de surveillance du secteur financier* (the **CSSF**) and the resolution authority is the Resolution Council (le *Conseil de résolution*) within the CSSF.	The safeguards provided by the BRRD at Articles 76-80 are implemented by Articles 76-80 of the BRR Act 2015.	Under the BRR Act 2015, article 77 implements article 77 of the BRRD. Article 207 of the BRR Act 2015 provides that the CSSF is the resolution authority in Luxembourg for the purposes of the BRRD. In particular, a Resolution Council (le *Conseil de résolution*) is set up within the CSSF and in such a way that its independence will be ensured. The CSSF is regulated by the Luxembourg act dated 23 December 1998 establishing a financial sector	Under the BRR Act 2015, Article 56 relating to contractual recognition of bail-in implements Article 55 of the BRRD. Are targeted by article 56 of the BRR Act 2015 the liabilities arising from contracts concluded after 1 January 2016 and relating to the liabilities that are within the scope of application of the bail-in tool (the **In Scope Liabilities**). This requirement does not apply where the Luxembourg Resolution Council (le *Conseil de résolution*) determines that the In Scope Liabilities can be subject to write-down	Henri Wagner (henri.wagner@allenovery.com) Allen & Overy 33 avenue J.F. Kennedy L-1855 Luxembourg PO Box 5017 L-1050 Luxembourg Tel.: +352 44 44 5 5409	Note that on 7 April 2015 the CSSF issued a Circular 15/610 on *ad hoc* data collection within the context of the BRRD. The circular covers the following two points: (a) information for the purpose of establishing resolution plans; and (b) information on eligible liabilities in calculating the minimum capital requirements and eligible liabilities ("**MREL**"). In a press release dated 28 May 2015 the European Commission asked Luxembourg to fully implement the BRRD – the Commission's request takes the form of a reasoned opinion, the second stage of the EU infringement procedures. If Luxembourg fails to comply within two months, the Commission may decide to refer it to the EU Court of Justice.

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
					– the Luxembourg act dated 24 May 2011 on the exercise of certain rights of shareholders in general meetings of listed companies.			supervisory commission, as amended (the **CSSF Law**). In terms of sanctions, paragraph (2) of article 20 of the CSSF Law provides that for the CSSF to assume civil liability for individual damage incurred by the companies or professionals subject to its supervision, their clients or third parties, it must be demonstrated that the damage was caused through gross negligence in the choice and application of the means implemented to carry out the CSSF's public service remit. The BRR Act 2015 adds a third paragraph to article 20 of the CSSF Law, which states that paragraph (2) will also apply to members of management, or the CSSF staff individually, when they carry a public service mission by representing the CSSF within other organisations, institutions, committees, authorities or independent agencies. (*free translation*) Article 207 of the BRR Act 2015 amends the CSSF Law so as to specifically provide that the sanctions applicable under	and conversion powers by the Luxembourg Resolution Council (le *Conseil de résolution*) pursuant to the law of the third country or to a binding agreement concluded with that third country. The Luxembourg Resolution Council (le *Conseil de résolution*) may require institutions to provide it with a legal opinion relating to the legal enforceability and effectiveness of such a clause. Furthermore, the absence of such clause does not prevent the application of the bail-in tool or the use of the write-down or conversion powers (even for liabilities arising from contracts concluded before 1 January 2016).		In a press release dated 22 October 2015 the European Commission reported it has decided to refer Luxembourg, amongst others, to the Court of Justice of the EU over failure to transpose legislation on BRRD.

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
								paragraphs (2) and (3) of article 20 of the CSSF Law will apply to the Luxembourg Resolution Council.			
Malta	EU member state and member of the euro area	Fully implemented	18 September 2015	Bail-in from so-called 'senior debt holders' is not mandatory whether by conversion into capital or by write-down of instruments before 1 January, 2016.	Recovery and Resolution Regulations, 2015 (the **R&R Regulations**)	The Board of Governors of the Malta Financial Services Authority shall act as the Resolution Authority for the purposes of Article 3 of the BRRD. The Malta Financial Services Authority shall act as the competent authority.	Article 76 of the BRRD is implemented by Regulation 76 of the R&R Regulations. Article 77 of the BRRD is implemented by Regulation 77 of the R&R Regulations. Article 78 of the BRRD is implemented by Regulation 78 of the R&R Regulations. Article 79 of the BRRD is implemented by Regulation 79 of the R&R Regulations. Article 80 of the BRRD is implemented by Regulation 80 of the R&R Regulations.	Regulation 77 of the R&R Regulations is in substantially the same form as Article 77 of the Directive, save for the necessary amendments that are required to reflect the fact that the R&R Regulations transpose an EU Directive into Maltese law. No supplementary rules or regulations have been issued at a Maltese law level. Therefore, to date, no remedies in relation to Article 77 have been introduced into Maltese law.	Regulation 55 of the R&R Regulations is in substantially the same form as Article 55 of the Directive, save for the necessary amendments that are required to reflect the fact that the R&R Regulations transpose an EU Directive into Maltese law. No supplementary rules or regulations have been issued at a Maltese law level; however we do understand that certain regulations, rules and guidelines have been issued at an EU level.	Conrad Portanier (cportanier@ganadoadvocates.com) Paul Falzon (pfalzon@ganadoadvocates.com) Ganado Advocates 171 Old Bakery Street Valletta VLT1455 Malta Direct Tel.: +356 21235406 Switchboard: (+356) 21 23 54 06	Several Maltese 'parent' laws have been amended to cater for the introduction into Maltese law of part of the recovery and resolution regime (as set out in the BRRD) including the Malta Financial Services Authority Act (the **MFSA Act**), the Banking Act and the Investment Services Act (amongst others) have been amended to transpose certain provisions of the BRRD. The main changes relate to the MFSA Act which has, inter alia, introduced certain key definitions relating to the BRRD and has introduced the provisions relating to the resolution authority and resolution committee, including, inter alia, the objectives, functions and powers of the resolution committee.
Netherlands	EU member state and member of the euro area	Fully implemented	26 November 2015	26 November 2015	Dutch Act Implementing the European Recovery and Resolution Framework (*Implementatiewet Europees kader voor herstel en afwikkeling van banken en beleggingsondernemingen*) (the **Act**).	The national competent and resolution authority is the Dutch Central Bank.	Article 76 BRRD is implemented by Article 3A:60 Dutch Act on Financial Markets Supervision (*Wet op het financieel toezicth* (the **WFT**)). Articles 77 – 79 BRRD is implemented by Article 3A:61 WFT. Article 80 BRRD is implemented by Article 3A:59 WFT.	A transfer in breach of article 3a:61 wft, will not be voidable, however, such transfer will not affect the powers ("*bevoegdheden*") of the counterparty. consequently, the counterparty will still be able to invoke netting or set-off rights. A similar approach applies to a termination or amendment of rights and obligations under the relevant arrangements. such	DNB has adopted a similar approach as the FCA: it sent a letter to the banks saying that they would effectively not enforce if for "practical reasons" compliance was not feasible.	Gerard Kastelein (gerard.kastelein@allenovery.com) Allen & Overy LLP Apollolaan 15 1077 AB Amsterdam PO Box 75440 Amsterdam 1070 AK Netherlands Tel.: +31 20 674 1371	The Act resulted in additions to and amendments of the Netherlands Financial Supervision Act. As a result thereof, the Netherlands Intervention Act will for the greater part cease to apply to banks and will only apply to insurers.

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
								termination or amendment will be valid, but without effect in respect of the counterparty.			
Norway	EEA State	Not yet implemented	Not yet known	Not yet known	Not yet known	Not yet known	Not yet known	Not yet known	Not yet known	Knut Bergo (knb@wiersholm.no) Wiersholm PO Box 1400 Vika 0115 Oslo Norway Tel.: + 47 210 210 00	As an EEA member state, Norway is not yet required to implement the BRRD. See note on the cover page. A new Act on Financial Institutions was approved by Parliament in April 2015, which is to come into force in 2016, but this act is outdated already and does not reflect the BRRD. Resolution of two-pillar system to solve over-nationality issues posed by the new finance and banking directives. Intended that ESA (EFTA surveillance authority) will be granted authority over Norwegian regulators and Norwegian financial institutions while EBA will draft all decisions made by ESA, but the details and implementation remain unclear.
Poland	EU member state	Not yet implemented	Not yet known, but we expect the Act will enter into force within the next 2 months.	Not yet known but the bail-in provisions will enter into force along with other provisions of the Act, ie within the next 2 months.	The Act on the Bank Guarantee Fund, deposit guarantee system and compulsory restructuring (*Ustawa o Bankowym Funduszu Gwarancyjnym, systemie gwarantowania depozytów oraz przymusowej restrukturyzacji*) (the **Act**).	The resolution authority is the Bank Guarantee Fund (*Bankowy Fundusz Gwarancyjny*) (the **BGF**) and the competent authority is the Polish Financial Supervision Authority (*Komisja Nadzoru Finansowego*).	Article 76(1) of BRRD will be implemented by Article 242.1 and Article 242.4 of the Act. Article 76(2) of BRRD will be implemented by Article 151 of the Act. Article 76(3) of BRRD does not need implementation. Article 76(4) of BRRD does not need implementation. Article 77(1) of BRRD will be implemented by Articles 151 and 152 of the Act. Article 77(2) of	The remedy for a breach of Article 77 safeguard is a complaint to an administrative court regarding a relevant decision of the Bank Guarantee Fund. An administrative court can declare that a relevant decision was issued in breach of the law. As a general rule, the judgment declaring that the decision was issued in breach of the law can provide a basis for a civil lawsuit for damages.	Article 55 of BRRD will be implemented by Article 222 of the Act. Although Art. 222 of the Act imposes an obligation to include comprahensive information on the risks related to the write-down and conversion powers of BGF, it does not limit the scope of the relevant liabilities to non-EEA liabilities. Literal interpretation of this provision may lead to conclusion that the contractual term should be included in every new liability, whether it is governed by Polish, EEA or non-EEA law. Under Article 222 of the Act: 1. An entity issuing a	Bartosz Jagodzinski (bartosz.jagodzinski@allenovery.com) Mateusz Chodosz (mateusz.chodosz@allenovery.com) Allen & Overy, A. Pędzich sp. k. Rondo ONZ 1 34 floor Warsaw 00 - 124 Poland Tel.: +48 22 820 6118	The Act was passed by the lower house of the Polish parliament on 20 May 2016 and has been handed to the upper house for review

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
							BRRD will be implemented by Article 152 of the Act. Article 78(1) of BRRD will be implemented by Articles 152 and Article 153 of the Act. Article 78(2) of BRRD will be implemented by Article 153 of the Act. Article 79(1) of BRRD will be implemented by Articles 152 and 153 of the Act. Article 79(2) of BRRD will be implemented by Article 153 of the Act. Article 80(1)(2) of BRRD will be implemented by Articles 68 and 144.7 of the Act.		financial instrument or incurring a liability which may be subject to the write-down and conversion must: A) include in the terms and conditions, or in an agreement, a term providing that such instrument or liability may be subject to write-down or conversion in a way ensuring that the buyer of a financial instrument or party to the agreement under which such entity incurs such liability becomes aware of such term; B) obtain the consent of the buyer of a financial instrument or party to the agreement under which such entity incurs such liability to recognise the effect of the decision regarding a write-down or conversion. 2. The Bank Guarantee Fund may release an entity from the obligation set out in item 1 above if the governing law for a financial instrument or an agreement ensures the unconditional recognition of the Bank Guarantee Fund's decision on write-down or conversion of liabilities. In such event the Fund may request such entity to provide an appropriate legal opinion.		
Portugal	EU member state and member of the euro area	Fully implemented	Law No. 23-A/2015 came into force on 31 March 2015. Amendments	The bail-in provisions came into force on 31 March 2015. The bail-in tool, as provided for	Law No. 23-A/2015, of 26 March (as amended by Law No. 66/2015, of 6 July), transposing Directive 2014/49/EU of the European Parliament and of the Council, of 16 April 2014, on deposit guarantee schemes, and Directive 2014/59/EU of the European Parliament and of the Council, of 15 May 2014, amending the General Regime of Credit	The Bank of Portugal is, for purposes of BRRD, both the resolution and the competent authority.	Safeguards under BRRD Articles 76 to 80 have been implemented by the General Regime of Credit Institutions and Financial Companies (Decree-	Portuguese law does not provide for a "clear, certain and immediate" remedy for a breach of a safeguard by a resolution authority, within the meaning	Fully implemented by the General Regime of Credit Institutions and Financial Companies, in its article 145-X – Additional provisions for the bail-in measure *("Artigo 145.º-X –*	Pedro Cardigos (pcardigos@cardigos.com) Francisca Teixeira Duarte (fduarte@cardigos.com) Joana Vitorino Mendes	

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
			brought by Law No. 66/2015 came into force in October 2015.	in article 145.º-U of the General Regime of Credit Institutions and Financial Companies to strengthen credit institutions' own funds, is only applicable from 1 January 2016 in case of deposits guaranteed by the Deposits' Guarantee Fund that benefit from a preferential credit pursuant to Article 166.º-A (4) of the aforementioned legislation.	Institutions and Financial Companies, the Organic Law of the Bank of Portugal, the Decree-law No. 345/98, of 9 November, the Securities Code, the Decree-Law No. 199/2006, of 24 October, and the Law No. 63-A/2008, of 24 November (*Lei n.º 23-A/2015, de 26 de Março, que transpõe as Diretivas 2014/49/UE, do Parlamento Europeu e do Conselho, de 16 de abril, relativa aos sistemas de garantia de depósitos, e 2014/59/UE, do Parlamento Europeu e do Conselho, de 15 de maio, alterando o Regime Geral das Instituições de Crédito e Sociedades Financeiras, a Lei Orgânica do Banco de Portugal, o Decreto -Lei n.º 345/98, de 9 de novembro, o Código dos Valores Mobiliários, o Decreto -Lei n.º 199/2006, de 25 de outubro, e a Lei n.º 63 -A/2008, de 24 de novembro*). This law amended and republished the following Portuguese legislation: the (1) General Regime of Credit Institutions and Financial Companies (Decree-Law No. 298/92, of 31 December); (2) Organic Law of the Bank of Portugal (Law No. 5/98, of 31 January); (3) Mutual Agricultural Credit Guarantee Fund Regime (Decree-Law no. 345/98, of 9 November); (4) Portuguese Securities Code (Decree-Law No. 486/99, of 13 November); (5) Credit Institutions and Financial Companies Regime – Winding up and Reorganization (Decree-Law No. 199/2006, of 14 August); and (6) Measures to enhance the Financial Strength of Credit Institutions (Law No. 63-A/2008, of 24 November).		Law No. 298/92, of 31 December), as amended by Decree-Law No. 20/2016, of 20 April.	given by the 2014 ISDA Briefing Note on implementation of Article 77(1). In particular, please note that Portuguese law establishes that any decision of the Bank of Portugal related to resolution measures or powers is, in general, subject to the general administrative proceeding rules. Therefore, a counterparty affected by either a partial property transfer or a contractual modification in breach of the safeguard would be required to apply before a court for relief from the effects of such measures.	*Disposições complementares para a medida de recapitalização interna")*, as introduced by Law No. 23-A/2015, of 26 March, which came into force on 31 March 2015. Article 145-X: (…) 3. The credit institutions must include a contractual provision on the terms and conditions of the contractual instruments that give rise to a credit, by means of which the creditor recognises that such credit may be subject to the application of the powers provided for in paragraphs 1 and 2 of Article 145-U [on bail-in, namely the write-down and conversion powers] and accepts its respective effects, in the cases where these contractual instruments: (a) are not excluded from the application of the powers provided for in paragraphs 1 and 2 of Article 145-U (…); (b) do not comprise a deposit (…); (c) are governed by a foreign law; (d) are entered into after the date in which Law no. 23-A/2015, of 26 March, comes into force. 4. The rule provided for in paragraph 3 is not applicable in case the Bank of Portugal establishes that the aforementioned credits may be subject to the powers provided for in paragraphs 1 and 2 of Article 145-U under the law of that foreign country or under an	(jmendes@cardigos.com) CARDIGOS Praça Nuno Rodrigues dos Santos 14B 1600-171 Lisbon Portugal Direct Tel.: +351 21 330 39 01 Switchboard: +351 213 303 900	

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
									agreement entered into with such country. 5. The Bank of Portugal may require the credit institutions to present a legal opinion demonstrating the validity and the effectiveness of the clause included in the contractual instruments as provided for in paragraph 3. 6. The non-inclusion of the clauses referred to in paragraph 3 does not prevent the Bank of Portugal from applying the powers provided for in paragraphs 1 and 2 of Article 145-U to these credits.		
Romania	EU member state	Fully implemented	The BRR Law entered into force on 14 December 2015 (as per general rules – three days from publication in the Official Gazette), except Art. 320(d) and (e) of the BRR Law (regarding the right of the NBR to cut certain subordinated debts or other amounts due, including deposits) and Articles 352-357 (regarding public instruments of financial stabilisation), which entered into force on 1 January 2016.	The bail-in provisions entered into force as per general rules (i.e. 14 December 2015), except for the provisions concerning applicability of bail-in tool as regards liabilities which do not observe prudential requirements in order to be considered as own funds, as well as eligible liabilities. Such provisions entered into force on 1 January 2016.	Law No. 312/2015 regarding the recovery and resolution of credit institutions and investment firms, as well as for the amendment and completion of several normative acts in the financial sector *(Lege privind redresarea şi rezoluţia instituţiilor de credit şi a firmelor de investiţii, precum şi pentru modificarea şi completarea unor acte normative în domeniul financiar)* (the **BRR Law**), published in the Official Gazette of Romania No. 920 of 11 December 2015.	The resolution authorities and the competent authorities are: (1) the National Bank of Romania (the **NBR**) (as regards credit institutions); and (2) the Financial Supervisory Authority (the **FSA**) (as regards investment firms). The NBR is designated as the contact authority.	As regards credit institutions: Article 76(1) BRRD is implemented by Article 428 of the BRR Law; Article 76(2) BRRD is implemented by Article 429 (1) of the BRR Law; Article 76(3) BRRD is implemented by Article 429 (2) of the BRR Law; Article 76(4) BRRD does not need implementation; Article 77(1) BRRD is implemented by Article 430 of the BRR Law; Article 77(2) BRRD is implemented by Article 431 of the BRR Law;	The remedy for breach of Article 77 safeguard is provided by Articles 453, 454 and 455 of the BRR Law (implementing Article 85 of the BRRD, with certain particularities as regards the actual means of challenge as regulated under the Romanian Banking Law (i.e. Government Emergency Ordinance No. 99/2006 on credit institutions and capital adequacy)) or under the FSA Ordinance (i.e. Government Emergency Ordinance No. 93/2012). Thus, any counterparty affected by a decision of the NBR to take a crisis prevention measure or a decision taken in the exercise of its	Article 55 of the BRRD is implemented by Articles 349, 350, 351 and 576 of the BRR Law.	Victor Padurari (victor.padurari@rtprallenovery.com) Andreea Burtoiu (andreea.burtoiu@rtprallenovery.com) Andreea Ramona Chiriac (andreea-ramona.chiriac@rtprallenovery.com) Radu Tărăcilă Pădurari Retevoescu SCA in association with Allen & Overy LLP Charles de Gaulle Plaza, 5th floor 15 Charles de Gaulle Square 011857 Bucharest 1 Romania 011857 Tel.: +40 314 05 7777	

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
							Article 78(1) BRRD is implemented by Article 432 (1) of the BRR Law; Article 78(2) BRRD is implemented by Article 432 (2) of the BRR Law; Article 79(1) BRRD is implemented by Article 433 of the BRR Law; Article 79(2) BRRD is implemented by Article 434 of the BRR Law; Article 80(1) BRRD is implemented by Article 435 of the BRR Law; and Article 80(2) BRRD is implemented by Art. 436 of the BRR Law; As regards investment firms, article. 576 of the BRR Law provides that the articles mentioned above (which refers to credit institutions) are also applicable to investment firms, save that any reference therein to a credit institution will be deemed to be made to an investment firm, and any reference to the NBR as resolution authority will be deemed to be made to the FSA.	rights as resolution authority, including a crisis management measure, may be challenged according to the rules set out in the Romanian Banking Law. Similarly, any challenge against the decisions of the FSA as resolution authority for investment firms may be challenged based on the provisions of the FSA Ordinance. Challenges in court against crisis management measures taken by the NBR should be subject to expedite judicial proceedings. The courts will use as the basis of their assessment, the NBR's complex economic assessment of factual situations. As regards credit institutions, during the proceedings, the enforcement of the decisions of the NBR is not suspended by operation of the law (thus, one could obtain a suspension if proven, according to the below paragraph, that such suspension is not against public interest). Such decisions will continue to produce effects until a contrary decision is made by the NBR's Board or until the competent court issues a final contrary decision. In line with the			

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
								foregoing, as regards the challenge of an NBR's decision to take a crisis management measure, the BRR Law presumes (but it can be argued against) that the suspension of such decision would be against the public interest. Furthermore, the BRR Law provides that where it is necessary to protect the interests of third parties acting in good faith that have acquired the shares, other instruments of ownership, assets, rights or liabilities of an institution under resolution by virtue of the use of resolution tools or exercise of resolution powers by the NBR, the annulment of an NBR's decision to take a crisis management measure shall not affect any subsequent administrative acts or transactions concluded by the NBR which were based on the annulled decision. In such cases, remedies for a wrongful decision or action by the NBR shall be limited to compensation for the loss suffered by the applicant as a result of the decision or act, if such losses are not covered by the bank resolution funds according to the relevant legal provisions.			

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
								Decisions taken by the NBR as regards credit institutions may be challenged within 15 days from their notification to the NBR Board, which must issue its decision within 30 days from the date the notification was made. The decision of the NBR's Board may be challenged at the Romanian High Court of Cassation and Justice, within 15 days from notification. As regards investment firms, any challenge against the decisions of the FSA will be pursued based on the provisions of the law on administrative litigations.			
Slovakia	EU member state and member of the euro area	Fully implemented	1 January 2015	1 January 2015	Act No. 371/2014 Coll. on resolution of crisis situations in the financial market and on amendments to certain laws (*Zákon č. 371/2014 Z.z. o riešení krízových situácií na finančnom trhu a o zmene a doplnení niektorých zákonov*) (the **Act**). Act No. 437/2015 amends the Act above.	The resolution authority is the Council for the Resolution of Financial Crisis (the **Resolution Council**) composed of representatives of the National Bank of Slovakia (the **NBS**), the Ministry of Finance and the Debt and Liquidity Management Agency. A special department of the NBS provides support to the Resolution Council and the NBS is also the competent authority.	Safeguards under BRRD Articles 76 to 80 have been implemented by sections 79 to 83 of the Act.	The remedy for breach of Article 77 safeguard is arguably that the relevant netting or set-off takes effect notwithstanding the transfer. However, the remedy would have to be decided upon by the Supreme Court, which is empowered to rule on appeals against decisions of the Resolution Council.	Article 55 is implemented in section 69 of the Act. The implementation has been clarified under the latest amendment to the Act (Act No. 437/2015). The provision is now aligned with and does not go beyond BRRD Article 55 wording. No further rules or guidance were issued.	Peter Jedinak (peter.jedinak@allenovery.com) Renatus Kollar (renatus.kollar@allenovery.com) Michal Porubsky (michal.porubsky@allenovery.com) Allen & Overy Bratislava, s.r.o. Eurovea Central 1 Pribinova 4 Bratislava 81109 Slovakia Tel. Peter: +421 2 5920 2417 Tel. Renatus: +421 2 5920 2423 Tel. Michal: +421 2 5920 2459	An English translation of the Act by the NBS can be found via the link below: http://www.nbs.sk/_img/Documents/_Legislativa/_BasicActs/A371-2014.pdf.
Slovenia	EU member state and member of the euro area	Partially implemented	31 December 2014, 13 May 2015 and 1 December 2015	The bail-in provisions of the BRRD have not been implemented yet. Until full implementation of the	1. The Bank Resolution Authority and Fund Act (*Zakon o organu in skladu za reševanje bank*) (the **ZOSRB**) came into effect on 31 December 2014, and its amendments on 1 December 2015; 2. the Banking Act (*Zakon o bančništvu*)	The resolution and the competent authority is the Bank of Slovenia (the **Slovenian Central Bank**).	Preliminarily, it appears that BRRD Articles 76-79 will be implemented in Article 131 of the Bill and BRRD Article 80 in Article 132 of the Bill.	The Bill does not contain any special remedies with respect to protection for the financial collateral, set off and netting arrangements. It appears, that the	Preliminary, it appears that Article 55 will be implemented in Article 82 of the Bill. This must be re-confirmed upon adoption of the Bill.	Boštjan Špec (bostjan.spec@bosp.si) Odvetniška družba Špec o.p. d.o.o. Kolodvorska ulica 3 Ljubljana 1000 Slovenia	As per the legislative history of the ZBan-2, it was contemplated that the new law would be effective by the end of 2015 and would implement in full the remaining provisions of the BRRD dealing, *inter alia*, with extraordinary powers (measures), including bail-in, and winding-up proceedings in

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
				BRRD, the bail-in and other extraordinary measures provisions set forth in the previously valid Banking Act remain to be in force.	(the **ZBan-2**) with most of its provisions becoming effective on 13 May 2015; and 3. the Recovery and Compulsory Dissolution of Credit Institutions Act (*Zakon o reševanju in prisilnem prenehanju bank*) (still subject to the legislature proceedings in the Parliament as per the date of this update) (the **Bill**).		The above mentioned statements need to be confirmed upon adoption of the Bill.	legislator has viewed its obligation under Article 77 in a manner to make sure that there are provisions in the law in place binding the resolution authority (i.e. the Bank of Slovenia) to protect said arrangements from (i) cherry picking and (ii) modification of such rights through the use of resolution measures and ancillary powers, respectively. As a result, the Bill in the event of a transfer of some, but not all, of the assets, rights and liabilities of a failing institution requires that the Bank of Slovenia not split linked liabilities, rights and contracts. Violation of such protection provisions would give general right to challenge the decisions of the Bank of Slovenia as well as damages claim against the Bank of Slovenia. It should be noted that this analysis and the wording of the Bill is preliminary and should be subject to review upon adoption.		Tel.: +386 8 205 2961	relation to banks. The Slovenian government then submitted its initial proposal in the form of the Bill (i.e. Recovery and Compulsory Dissolution of Credit Institutions Act) to the National Assembly on 9 May 2016. The Bill is subject to fast track parliamentary procedure and may be adopted after mid-June 2016 at the earliest (at least according to the current parliamentary session's schedule). In such case, it would become effective (after the lapse of the *vacatio legis* period) at the beginning of July 2016. During the current stage the National Assembly may still amend the wording of the Bill before voting on its introduction. By the adoption of the Bill, provisions of the previously valid ZBan-1 (the banking act that was otherwise replaced by the ZBan-2) on extraordinary measures, addressing basically similar concepts as provided in the BRRD, shall apply. Only provisions on recovery planning, intragroup financial support, early intervention and financing arrangements of the BRRD have been implemented in Slovenia so far. Nevertheless, the ZBan-2 has introduced a new provision outside the scope of the BRRD implementation granting banks in the process of gradual winding-up (and financial reorganisation) the right to repay outstanding obligations early subject to certain conditions and the approval of the Bank of Slovenia that the conditions for such early repayment are fulfilled. Effective December 1 2015, the provisions of the ZSORB were, however, amended to transpose obligations under Article 100 of the BRRD with respect to establishing of resolution financing arrangements for the Single Resolution Fund.
Spain	EU member state and member of the euro area	Fully implemented	20 June 2015	The provisions regarding bail-in came into force on 1 January 2016.	Law 11/2015, of 18 June, on recovery and resolution of credit institutions and investment firms (*Ley 11/2015, de 18 de junio de recuperación y resolución de entidades de crédito y empresas de servicios de inversión*) and Royal Decree 1012/2015 of 6 November 2015 (the **BRRD Implementing Law**). This repealed Law 9//2012.	In the BRRD Implementing Law, Spain designates "preventive resolution authorities" and *El Fondo de Restructuración Ordenada Bancaria* (the **FROB**) as the "implementing resolution authority".	Safeguards under BRRD Articles 76 to 80 have been implemented by Article 67 of the BRRD Implementing Law referring to the partial transfer of assets and liabilities.	Although there is no specific provision in this regard, Article 72 of the BRRD Implementing Law sets out an administrative remedy whereby the acts and decisions of	Article 55 of BRRD is implemented by Article 46 of the BRRD Implementing Law.	Salvador Ruiz Bach (salvador.ruizbachs@allenovery.com) Miguel Corbacho (miguel.corbacho@allenovery.com) Allen & Overy Calle Pedro de Valdivia 10	The BRRD Implementing Law changed the ranking of claims and enabled Spanish banks to issue the so-called senior subordinated notes or Tier 3.

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
						The role of preventive resolution authorities is limited and is closer to powers on competent authorities. The Preventive Resolution Authority acts in connection with credit institutions through the Bank of Spain (*Banco de España*) (the **BoS**) and investment firms through the Stock Market Commission (*Comisión Nacional del Mercado de Valores*) (the **CNMV**).		the resolution authority within an early intervention process and in a preventive or executive resolution phases are subject to be appealed before the relevant Spanish court, which may nullify the resolution authority resolution or act. In those cases where it is not possible to execute the court's decision, the court may impose compensation for damages.		28006 Madrid Spain Tel. Salvador: +34 91 782 99 23 Tel. Miguel: +34 91 782 97 04	
Sweden	EU member state	Fully implemented	1 February 2016	1 February 2016	The Resolution Act (*sw. lagen om resolution*) and the Precautionary Support Act (*sw. lagen om förebyggande statligt stöd till kreditinstitut*), as well as amendments to several existing acts.	Sweden has appointed the Swedish National Debt Office (*Riksgäldskontoret*) as the Swedish resolution authority. The National Debt Office's role is carried out in co-operation with the Swedish Financial Supervisory Authority (*Finansinspektionen*) (as competent authority).	Safeguards are implemented through Chapter 23, sections 2 through 7 of the Resolution Act. Article 76.1 is implemented through Chapter 23, section 2 of the Resolution Act. Articles 76.2 and 76.3 are implemented through Chapter 23, sections 3–5 of the Resolution Act. Article 77.1 is implemented through Chapter 23, section 5 of the Resolution Act. Article 77.2 is implemented through Chapter 23, section 7 of the Resolution Act. Article 78.1 a-c is implemented through Chapter 23, section 4 of the Resolution Act. Article 78.2 is implemented through Chapter 23, section 7 of the Resolution Act.	A right for the affected party to bring administrative court proceedings against the decision in breach of the Article 77 safeguard taken by the resolution authority.	Article 55 is implemented in its entirety through Chapter 5, sections 2 and 3 of the Resolution Act.	Thomas Pettersson (thomas.pettersson@msa.se) Romina Bolin (romina.bolin@msa.se) Mannheimer Swartling Norrlandsgatan 21 Box 1711 111 87 Stockholm Sweden Tel.: +46 8 595 064 65 Switchboard: +46 8 595 060 00	

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
							Article 79.1 is implemented through Chapter 23, section 3 of the Resolution Act. Article 79.2 is implemented through Chapter 23, section 7 of the Resolution Act. Article 80.1 is implemented through Chapter 23, section 6 of the Resolution Act.				
Switzerland	European Free Trade Association (EFTA) member state	Switzerland is not bound by the BRRD, however, legislation has been adopted that addresses the issues dealt with under the BRRD. Further amending legislation was passed on 19 June 2015 and came into effect on 1 January 2016. Please note that the Swiss legislation does, however, not set up a resolution fund as provided for under the BRRD	Various dates ranging from March 2011 to January 2016	1 November 2012	• Swiss Banking Act (SR 952.0); the relevant provisions came into force on 1 March 2012 (regarding the duty for banks of systemic importance to set up a recovery and resolution plan and to hold a minimum of own funds and eligible liabilities) and on 1 September 2011 (regarding early intervention rights of FINMA in relation to banks in a bad financial situation and restructuring/resolution procedures for failing banks). This Act has been amended in connection with the new FMIA (see below). Last amended with effect as from 1 January 2016. • Banking Ordinance (SR 952.02), which came into force on 1 January 2015 (regarding the duty for banks of systemic importance to set up a recovery and resolution plan). Last amended with effect as from 1 January 2016. • Ordinance on Own Funds and Risk Allocation for Banks and Securities Dealers (SR 952.03), which came into force on 1 January 2013 (regarding minimum capital requirements and eligible capital). Last amended with effect as from 1 January 2016. • Ordinance of the Swiss Financial Market Supervisory Authority on the Insolvency of Banks and Securities Dealers (SR 952.05), which came into force on 1 November 2012 (regarding early intervention rights of FINMA, bail-in provisions, and the postponement of the termination of contracts). Note that, in connection with the enactment of FMIA (see below), the postponement of the termination of contracts is now regulated	The resolution and competent authority is the Swiss Financial Market Supervisory Authority (the **FINMA**)	Safeguards under BRRD Articles 76 to 80 have been implemented by: • Article 26 and Article 34 para. 3 of the Swiss Banking Act of 8 November 1934 (SR 952.0), with the relevant provisions last amended on 18 March 2011 (Safeguard of Deposits) and in effect since 1 September 2011. In connection with the new FMIA, the Swiss Banking Act has been amended (new legal basis for the postponement of the termination of contracts: Art. 30a), that entered into force on January 1 2016. • Article 56 *et seq*. of the Ordinance of the Swiss	Article 30a Banking Act provides for a stay of the termination rights but also the exercise of the netting, realization of collateral and porting agreements during the stay that can be ordered with any protective or reorganization measure for up to 48 hours. The stay right now takes precedence over the netting, collateral realization and porting rights during such stay pursuant to the revised Article 27 of the Swiss Banking Act. In respect of the measures that are to be protected by the stay are measures aiming at transfer of business, capital reduction or capital conversion (bail-in measures). The provision that is the equivalent to Art 77 and that safeguards the netting and collateral realisation provision in case of a transfer	Implemented by Article 30 para. 3 of the Swiss Banking Act (SR 952.0), with the relevant provision in force since 1 September 2011, and supplementary rules implemented by Article 48 the Ordinance of the Swiss Financial Market Supervisory Authority on the Insolvency of Banks and Securities Dealers (SR 952.05), with the relevant provision in force since 1 November 2012.	Patrick Hünerwadel (patrick.hunerwadel@lenzstaehelin.com) Lenz & Staehelin Bleicherweg 58 8027 Zurich Switzerland Switchboard: +41 58 450 80 00 François Rayroux (francois.rayroux@lenzstaehelin.com) Lenz & Staehelin Route de Chêne 30 1211 Geneva 17 Geneva Switzerland Switchboard: +41 58 450 70 00	Switzerland is not required to implement the BRRD, but has introduced a resolution regime with similar characteristics to the BRRD regime.

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
					in the Swiss Banking Act as well. Last amended with effect as from January 1, 2016. • The new Financial Markets Infrastructure Act (**FMIA**, also known as FinfraG) (*Finanzmarktinfrastrukturgesetz*), was passed by parliament on 19 June 2015 and came into force on 1 January 2016.		Financial Market Supervisory Authority on the Insolvency of Banks and Securities Dealers of 30 August 2012 (SR 952.05), as amended with the relevant change coming into force on 1 November 2012. Further amended with effect as from January 1, 2016 deleting Article 57 that previously dealt with the stay right that now is provided for in Article 30a of the Banking Act with effect as from 1 January 2016.	of business or a bail-in measure is Art. 31 para. 1 lit. d Swiss Banking Act that provides that the reorganisation plan (as a condition for its approval by FINMA) must see to it that the legal and economic connections between assets, liabilities and contractual relationships are adequately preserved. This principle is further detailed in the Ordinance of the Swiss Financial Market Supervisory Authority on the Insolvency of Banks and Securities Dealers (SR 952.05) for transfer, i.e. that (i) only claims and liabilities are transferred together that can be offset, (ii) secured claims and liabilities are transferred together with their collateral and (iii) structured financing arrangements or comparable capital market agreements to which the bank is a party are transferred together with all rights and obligations pertaining to such agreements (Article 51 para. 1 lit. h of the Ordinance of the Swiss Financial Market Supervisory Authority on the Insolvency of Banks and Securities Dealers. The Ordinance also provides in relation to bail-in measures that (i) secured claims and (ii) a set			

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
								of claims that are subject to a right of set-off against each other cannot be bailed in. The safeguard is a condition for the approval of the reorganization plan by FINMA. An approval of the reorganisation plan that would not respect such conditions could be appealed, but is not likely to have suspensive effect.			
United Kingdom[16]	EU member state	Fully implemented	See column 6	See column 6 Certain BRRD provisions relating to MREL and the requirement of Article 55 to include contractual clause in liabilities (other than certain debt instruments – see column 10) governed by third country law did not come into force until 1 January 2016. In the UK MREL is being phased in from 1 January 2016 to 1 January 2020.	The following six statutory instruments: (1) The Bank Recovery and Resolution Order 2014 (SI 2015/3329), which came into force on 1 January 2015; (2) The Banking Act 2009 (Mandatory Compensation Arrangements Following Bail-in) Regulations 2014 (SI 2014/3330), which came into force on 1 January 2015; (3) The Building Societies (Bail-in) Order 2014 (SI 2014/3344), which came into force on 10 January 2015; (4) The Bank Recovery and Resolution (No. 2) Order 2014 (SI 2014/3348), which came into force on 10 January 2015, with the exception of the provisions on the minimum requirement for own funds and eligible liabilities (MREL), which came into force on 1 January 2016; (5) The Banking Act 2009 (Restriction of Special Bail-in Provision, etc.) Order 2014 (SI 2014/3350), which came into force on 1 January 2015; and (6) The Banks and Building Societies (Depositor Preference and Priorities) Order 2014 (SI 2014/3486), which came into force on 1 January 2015.	The resolution authority is the Bank of England. The competent authorities are the Prudential Regulation Authority (**PRA**) and the Financial Conduct Authority (**FCA**).	Safeguards under BRRD Articles 76 to 80 have been implemented by the Banking Act 2009 (Restriction of Partial Property Transfers) Order 2009 (SI 2009/322) as amended by the Bank Recovery and Resolution Order 2014 (SI 2015/3329) (the **PPT Safeguards Order**).	The remedy for breach of Article 77 safeguard is that the relevant netting or set-off takes effect notwithstanding the transfer (PPT Safeguards Order, Article 11).	In January 2015, each of the PRA and FCA published rules implementing the Article 55 requirements. **PRA rules** New PRA Rulebook Part titled "Contractual Recognition of Bail-In" added. See PRA Rulebook: CRR Firms and Non-Authorised Persons: Contractual Recognition of Bail-In Instrument 2015 (PRA 2015/5) and PRA Policy Statement 1/15: http://www.bankofengland.co.uk/pra/Documents/publications/ps/2015/ps115.pdf Phased entry into force: (a) 19 February 2015 (for inclusion of contractual bail-in clauses in unsecured debt instruments); and (b) 1 January 2016	Ed Murray (ed.murray@allenovery.com) Kate Sumpter (kate.sumpter@allenovery.com) Oonagh Harrison (oonagh.harrison@allenovery.com) Allen & Overy LLP One Bishops Square London E1 6AD United Kingdom Tel. Ed: +44 20 3088 1837 Tel. Kate: +44 20 3088 2054 Tel. Oonagh: +44 20 3088 3255	The UK has fully implemented the BRRD, with the exception of Article 96, which requires that a resolution authority have the power to effect a stand-alone resolution of a third country entity. HM Treasury published a consultation on this point on 17 December 2015. As of 2 June 2016, HM Treasury has not published its response to the consultation feedback. HM Treasury has indicated that powers for the Bank of England to act independently to resolve a branch of a third country institution will be introduced by applying the relevant chapters of Part 1 of the Banking Act 2009, with certain modifications, to achieve the result outlined in Chapter 4 of the consultation. In addition to the statutory changes to the Banking Act 2009 to implement the BRRD and the related secondary legislation in various statutory instruments, the PRA amended its Rulebook in various ways to reflect implementation of the BRRD and the FCA amended its Prudential Sourcebook for Investment Firms (**IFPRU**) by deleting 2.5 and introducing a new chapter 11 and amended chapter 16 of its Supervision Manual (**SUP**). [The PRA and FCA are expected to consult on changes to their rules

16 The information given in relation to the UK specifically relates to the position in England and Wales, but the position is essentially the same in relation to Scotland and Northern Ireland, although some statutory references are different.

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
					Among other things, these statutory instruments made changes to: (a) the Banking Act 2009, which is the principal statute governing UK bank, building society and investment firm resolution; (b) the Financial Services and Markets Act 2000, which is the principal statute governing UK financial services regulation; (c) the Insolvency Act 1986; (d) the Insolvent Partnerships Order 1994 (SI 1994/2421) and (e) The Credit Institutions (Reorganisation and Winding Up) Regulations 2004.				(for all other relevant liabilities and for mixed activity holding companies). On 25 November 2015, the PRA published a "modification by consent" which allows in-scope firms to delay implementation until 30 June 2016 where compliance would be "impracticable": http://www.bankofengland.co.uk/pra/Documents/authorisations/waiverscrr/modbyconbailin.pdf The PRA published a consultation on 15 March 2016 which put forward proposals to amend the Contractual Recognition of Bail-In Part of the PRA Rulebook, along with a draft supervisory statement reflecting the PRA's expectations. The proposals are consistent with the modification by consent published by the PRA in November 2015. The consultation closed on 16 May 2016 and the amended rules are intended to apply from 1 July 2016: http://www.bankofengland.co.uk/pra/Documents/publications/cp/2016/cp816.pdf **FCA rules** Amendments to the Prudential sourcebook for Investment Firms (IFPRU) – new chapter 11.6 introduced. See FCA Recovery and Resolution Directive Instrument 2015 (FCA 2015/1) and FCA Policy		implementing Article 55 during Q1 2016.]

Country	European status and relationship to the Single Resolution Mechanism (SRM)[5]	Current status of legislation[6]	Date(s) provisions other than bail-in come into force	Date(s) bail-in provisions come into force	Name of implementing legislation	Name of national resolution authority and each competent authority[7]	Safeguards implementing BRRD Articles 76-80[8]	Remedy for breach of Article 77 safeguard[9]	Implementation of Article 55[10]	Contact	Comments[11]
									Statement 15/2: http://www.fca.org.uk/static/documents/policy-statements/ps15-02.pdf. Came into force on 1 January 2016. On 22 December 2015, the FCA published a "modification by consent" which aims to replicate the approach adopted by the PRA.		