CHAPTER 547

PARTICIPATION WITHIN THE SINGLE RESOLUTION FUND AND GRANTING OF FINANCIAL SUPPORT UNDER THE SINGLE RESOLUTION MECHANISM ACT

To authorise the Government of Malta to enter into the agreement on the transfer and mutualisation of contributions to the Single Resolution Fund during the transitional period as defined in the Act and to provide for the entering into financial or other agreements or arrangements with the participants of the Single Resolution Mechanism.

Amended by: XXI. 2016.2.

29th November, 2015

ACT XXXIV of 2015, as amended by Act XXI of 2016.

Short title and commencement.

1. (1) The short title of this Act is the Participation within the Single Resolution Fund and granting of financial support under the Single Resolution Mechanism Act.

(2) This Act shall come into force on such date as the Minister responsible for Finance may by notice in the Gazette establish, and different dates may be so established for different provisions or different purposes of this Act.

Interpretation. *Amended by: XXI. 2016.3.*

2. In this Act, unless the context otherwise requires:

"Agreement" means the agreement on the transfer and mutualisation of contributions to the Single Resolution Fund between the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Republic of Croatia, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic and the Republic of Finland of the 21st May 2014, annexed in the Schedule to this Act;

"Malta" has the meaning assigned to it by article 124 of the Constitution of Malta;

"Minister" means the Minister responsible for Finance;

"Single Resolution Mechanism" means the mechanism established through Regulation (EU) No. 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No. 1093/2010 of the European Parliament and of the Council;

"Single Resolution Fund" means the fund established according

to Regulation (EU) No. 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No. 1093/2010 of the European Parliament and of the Council;

"Single Supervisory Mechanism" means the mechanism established through Council Regulation (EU) No. 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions;

"transitional period" means the period from the 1st January 2016 until the date when the Fund reaches the target level fixed in Article 69 of the Single Resolution Mechanism Regulation or 1st January 2024, whichever is earlier.

Authority to participate in Single Resolution Fund. *Amended by: XXI. 2016.4.*

3. (1) Subject to the provisions of this Act, the Government of Malta shall participate in the Agreement relative to transfer and mutualisation of contributions to the Single Resolution Fund during the transitional period, in accordance with the terms and conditions set out in the Agreement, as may be amended from time to time, for the purposes identified under sub-article (2).

(2) The Agreement provides for the uniform rules and procedures for the transfer of contributions to the Single Resolution Fund and for the recourse to the compartments allotted to participating Member States in the Single Resolution Fund in times of economic crisis.

Ratification of the Agreement.

4. The Government of Malta is hereby authorised to ratify the Agreement.

Granting of contributions during the transitional period.

5. Any contribution granted by the Government of Malta, beyond the purpose specified under article 3(2), may only be done in such a manner and for such purpose as the House of Representatives may by resolution determine.

Power to make regulations.

6. The Minister may make regulations to carry out any of the obligations under the Agreement.

Public Accounts Committee.

7. The Minister shall appear at least once a year before the Public Accounts Committee or before another committee of the House of Representatives which from time to time may be tasked with the economic and financial scrutiny of Government for the purpose of rendering account of the workings of the Single Resolution Fund insofar as this is in conformity with the obligations of Malta.

SCHEDULE

(Article 2)

AGREEMENT
ON THE TRANSFER AND MUTUALISATION
OF CONTRIBUTIONS TO THE SINGLE RESOLUTION FUND

THE CONTRACTING PARTIES, the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Republic of Croatia, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic and the Republic of Finland;

COMMITTED TO achieving the establishment of an integrated financial framework in the European Union of which the banking union is a fundamental part;

RECALLING the Decision of the representatives of the euro area Member States meeting within the Council of the European Union of 18 December 2013, related to the negotiation and conclusion of an intergovernmental agreement concerning the Single Resolution Fund ("the Fund") established according to Regulation of the European Parliament and of the Council establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund* ("SRM Regulation"), as well as the Terms of Reference attached to that Decision;

WHEREAS:

(1) The European Union has in the past years adopted a number of legal acts fundamental for the achievement of the internal market in the field of financial services and for guaranteeing the financial stability of the euro area and of the Union as a whole, as well as for the process towards deeper economic and monetary union.

(2) In June 2009, the European Council called for the establishment of a "European single rule book applicable to all financial institutions in the Single Market". The Union has thus established a single set of harmonised prudential rules, which credit institutions throughout the Union must respect, through Regulation (EU) No. 575/2013 of the European Parliament and of the Council# and Directive 2013/36/EU of the European Parliament and of the Council+.

(3) The Union has further set up the European Supervisory Authorities (ESAs) to which a number of tasks on micro-prudential supervision are allocated. They are

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* Regulation of the European Parliament and of the Council establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No. 1093/2010 of the European Parliament and of the Council.

\# Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012 (OJ L 176, 27.6.2013, p. 1).

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

the European Banking Authority (EBA) established by Regulation (EU) No. 1093/2010 of the European Parliament and of the Council* the European Insurance and Occupational Pensions Authority (EIOPA) established by Regulation (EU) No. 1094/2010 of the European Parliament and of the Council# and the European Securities and Markets Authority (ESMA) established by Regulation (EU) No. 1095/2010 of the European Parliament and of the Council+. That was accompanied by the establishment of the European Systemic Risk Board by Regulation (EU) No. 1092/2010 of the European Parliament and of the Council¢ to which some functions of macro-prudential supervision have been allocated.

(4) The Union has established a Single Supervisory Mechanism through Council Regulation (EU) No. 1024/2013,** conferring specific tasks on the European Central Bank (ECB) concerning policies relating to the prudential supervision of credit institutions, and conferring upon the ECB, acting jointly with the national competent authorities, powers of supervision over the credit institutions established in the Member States whose currency is the euro and in the Member States whose currency is not the euro which have established a close cooperation with the ECB for supervision purposes ("the participating Member States").

(5) Through the Directive of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms## ("BRR Directive"), the Union harmonises national laws and regulations on the resolution of credit institutions and certain investment firms, including the establishment of national resolution financing arrangements.

(6) The European Council of 13/14 December 2012 stated that "In a context where bank supervision is effectively moved to a single supervisory mechanism, a single resolution mechanism will be required, with the necessary powers to ensure that any bank in participating Member States can be resolved with the appropriate tools.". The European Council of 13/14 December 2012 further stated that "The

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* Regulation (EU) No. 1093/2010 of the European Parliament and of the Council 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No. 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

\# Regulation (EU) No. 1094/2010 of the European Parliament and the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No. 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

\+ Regulation (EU) No. 1095/2010 of the European Parliament and of the Council 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No. 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

¢ Regulation (EU) No. 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board (OJ L 331, 15.12.2010, p. 1).

** Council Regulation (EU) No. 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (OJ L 287, 29.10.2013, p. 63).

Directive of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No. 1093/2010 and (EU) No. 648/2012, of the European Parliament and of the Council

single resolution mechanism should be based on contributions by the financial sector itself and include appropriate and effective backstop arrangements. This backstop should be fiscally neutral over the medium term, by ensuring that public assistance is recouped by means of *ex post* levies on the financial industry.". The Union has, in that context, adopted the SRM Regulation which creates a centralised system of decision making for resolution, endowed with the adequate financing means through the establishment of the Fund. The SRM Regulation applies to the entities located in the participating Member States.

(7) The SRM Regulation establishes, in particular, the Fund as well as the modalities for its use. The BRR Directive and the SRM Regulation lay down the general criteria to determine the fixing and calculation of *ex ante* and *ex post* contributions of institutions necessary for the financing of the Fund, as well as the obligation of Member States to levy them at national level. Nonetheless, the participating Member States who raise the contributions on the institutions located in their respective territories according to the BRR Directive and the SRM Regulation, remain competent to transfer those contributions towards the Fund. The obligation to transfer the contributions raised at national level towards the Fund does not derive from the law of the Union. Such obligation will be established by this Agreement which lays down the conditions upon which the Contracting Parties, in accordance with their respective constitutional requirements, jointly agree to transfer the contributions that they raise at national level to the Fund.

(8) The competence of each of the participating Member States to transfer contributions raised at national level should be exercised in such a manner that respects the principle of sincere cooperation enshrined in Article 4(3) of the Treaty on European Union (TEU), according to which Member States shall to, *inter alia*, facilitate the achievement of the Union's tasks and refrain from any measure which could jeopardise the attainment of the Union's objectives. For that reason, participating Member States should ensure that financial resources are uniformly channelled towards the Fund, hence guaranteeing its proper functioning.

(9) Accordingly, the Contracting Parties have concluded this Agreement whereby, *inter alia*, they establish their obligation to transfer the contributions raised at national level towards the Fund, pursuant to uniform criteria, modalities and conditions, in particular, the allocation during a transitional period of the contributions they raise at national level to different compartments corresponding to each Contracting Party, as well as the progressive mutualisation of the use of the compartments in such a manner that the compartments will cease to exist at the end of that transitional period.

(10) The Contracting Parties recall that it is their aim to preserve a level playing field and minimise the overall cost of resolution to tax payers and will consider the overall burden on the respective banking sectors when designing the contributions to the Fund and their tax treatment.

(11) The content of this Agreement is limited to those specific elements concerning the Fund that remain within the competence of Member States. This Agreement does not affect common rules established under the law of the Union nor does it alter their scope. It is rather designed as complementary to the Union legislation on banking resolution and as supportive and intrinsically linked to the achievement of Union policies, in particular the establishment of the internal market in the field of financial services.

(12) National laws and regulations implementing the BRR Directive, including those related to the establishment of national financing arrangements, start to apply as from 1 January 2015. The provisions concerning the establishment of the Fund

under the SRM Regulation will be, in principle, applicable as from 1 January 2016. As a consequence, the Contracting Parties will raise contributions earmarked to the national resolution financing arrangement they are to establish up to the date of application of the SRM Regulation, at which date they will start raising the contributions earmarked to the Fund. In order to reinforce the financial capacity of the Fund as of its inception, the Contracting Parties commit to transfer to the Fund the contributions they have raised by virtue of the BRR Directive up to the date of application of the SRM Regulation.

(13) It is acknowledged that there may exist situations where the means available in the Fund are not sufficient to face a particular resolution action, and where the *ex post* contributions that should be raised in order to cover the necessary additional amounts are not immediately accessible. Pursuant to the statement of the Eurogroup and of the Council of 18 December 2013, in order to ensure continuous sufficient financing during the transitional period, the Contracting Parties concerned by a particular resolution action should provide bridge financing from national sources or the European Stability Mechanism ("ESM") in line with agreed procedures, including the setting up of possibilities for temporary transfers between national compartments. The Contracting Parties should have in place procedures allowing them to address any request for bridge financing in a timely manner. A common backstop will be developed during the transitional period. Such a backstop will facilitate borrowings by the Fund. The banking sector will ultimately be liable for repayment by means of contributions in all participating Member States, including *ex post* contributions. Those arrangements will ensure equivalent treatment across all Contracting Parties participating in the Single Supervisory Mechanism and the Single Resolution Mechanism, including Contracting Parties joining at a later stage, in terms of rights and obligations and both in the transition period and in the steady state. Those arrangements will respect a level playing field with Member States that do not participate in the Single Supervisory Mechanism and in the Single Resolution Mechanism.

(14) This Agreement should be ratified by all the Member States whose currency is the euro and by the Member States whose currency is not the euro that participate in the Single Supervisory Mechanism and in the Single Resolution Mechanism.

(15) Member States whose currency is not the euro that are not Contracting Parties should accede to this Agreement with full rights and obligations, in line with those of the Contracting Parties, as from the date when they effectively adopt the euro as currency or, otherwise, as from the date of entry into force of the ECB decision on close cooperation referred to in Article 7(2) of Regulation (EU) No. 1024/2013.

(16) On 21 May 2014, the representatives of the Governments of the Member States authorized the Contracting Parties to request the European Commission and the Single Resolution Board ("the Board") to perform the tasks provided for in this Agreement.

(17) Article 15 of the SRM Regulation, as on the date of its initial adoption, establishes general principles governing resolution, pursuant to which the shareholders of the institution under resolution bear first losses and the creditors of the institution under resolution bear losses after the shareholders in accordance with the order of priority of their claims. Article 27 of the SRM Regulation lays down accordingly a bail-in tool that requires that a contribution to loss absorption and recapitalisation equal to an amount not less than 8% of the total liabilities including own funds of the institution under resolution, measured at the time of resolution action in accordance with the valuation provided for in Article 20 of the SRM

Regulation, has been made by shareholders, the holders of relevant capital instruments and other eligible liabilities through write down, conversion or otherwise, and also requires that the contribution from the Fund does not exceed 5% of the total liabilities including own funds of the institution under resolution, measured at the time of resolution action in accordance with the valuation provided for in Article 20 of the SRM Regulation, unless all unsecured, non-preferred liabilities, other than eligible deposits, have been written down or converted in full. Moreover, Articles 18, 52 and 55 of the SRM Regulation, as on the date of its initial adoption, establish a number of procedural rules on decision making of the Board and the institutions of the Union. Those elements of the SRM Regulation constitute an essential basis for the consent of the Contracting Parties to be bound by this Agreement.

(18) The Contracting Parties acknowledge that the relevant provisions of the Vienna Convention on Law of Treaties as well as international customary law shall apply in respect of any fundamental change of circumstances that has taken place against their will and that affects the essential basis of the consent of the Contracting Parties to be bound by the provisions of this Agreement, as referred to in recital (17). The Contracting Parties may accordingly invoke the consequences of any fundamental change of circumstances that has taken place against their will, pursuant to public international law. If a Contracting Party invokes such consequences, any other Contracting Party can submit the matter to the Court of Justice of the European Union ("Court of Justice"). The Court of Justice should be granted the power to verify the existence of any fundamental change of circumstances and the consequences deriving from it. The Contracting Parties recognise that such invocation of consequences after the repeal or the amendment of any of the elements of the SRM Regulation referred to in recital (17), that has taken place against the will of any of the Contracting Parties and which is susceptible of affecting the essential basis of their consent to be bound by the provisions of this Agreement, will amount to a dispute concerning the application of this Agreement for the purposes of Article 273 of the Treaty on the Functioning of the European Union (TFEU) that can therefore be submitted to the Court of Justice by virtue of that provision. Any Contracting Party may also ask the Court of Justice for interim measures, in accordance with Article 278 TFEU and Articles 160 to 162 of the Rules of Procedure of the Court of Justice.* When deciding on the dispute, as well as on the granting of interim measures, the Court of Justice should take into account the obligations of the Contracting Parties under TEU and TFEU, including those relating to the Single Resolution Mechanism and its integrity.

(19) The determination whether the institutions of the Union, the Board and the national resolution authorities apply the bail-in tool in a manner which is compatible with the law of the Union falls within the powers of the Court of Justice in accordance with the legal remedies laid down in TEU and TFEU, namely Articles 258, 259, 260, 263, 265 and 266 TFEU.

(20) As an instrument of public international law, the rights and obligations laid down in this Agreement are subject to the principle of reciprocity. Accordingly, the consent by each of the Contracting Parties to be bound by this Agreement depends upon the equivalent performance of the rights and obligations incumbent on each of the Contracting Parties. As a consequence, the breach by any of the Contracting Parties of its obligation to transfer the contributions towards the Fund should entail the exclusion of the entities authorised in their territories from access to the Fund.

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* Rules of Procedure of the Court of Justice of 25 September 2012 (OJ L 265, 29.9.2012, p.1), including any subsequent amendments.

The Board and the Court of Justice should be granted the power to determine and declare whether the Contracting Parties have breached their commitment to transfer the contributions, in accordance with the procedures laid down in this Agreement. The Contracting Parties recognise that in case of a breach of the obligation to transfer the contributions, the only legal consequence will be the exclusion of the Contracting Party that has committed the breach from financing under the Fund and that the obligations of the other Contracting Parties under the Agreement shall remain unaffected.

(21) This Agreement lays down a mechanism whereby the participating Member States commit to reimburse, jointly, promptly and with interest to each Member State that is not participating in the Single Supervisory Mechanism and in the Single Resolution Mechanism, the amount that that non-participating Member State has paid in own resources corresponding to the use of the general budget of the Union in cases of non-contractual liability and costs related thereto, in respect of the exercise of powers by the institutions of the Union under the SRM Regulation. The liability of each participating Member State under this arrangement should be separate and individual, and not joint and several, and hence each of the participating Member States should respond only for their part of the obligation of reimbursement as determined in accordance with this Agreement.

(22) Disputes concerning the interpretation and application of this Agreement arising between the Contracting Parties, including those concerning compliance with the obligations laid down therein, should be submitted to the jurisdiction of the Court of Justice in accordance with Article 273 TFEU. Member States whose currency is not the euro that are not parties to this Agreement should be able to submit to the Court of Justice any dispute on the interpretation and enforcement of the provisions on compensation for non-contractual liability and costs related thereto laid down in this Agreement.

(23) The transfer of contributions by Contracting Parties which become part of the Single Supervisory Mechanism and of the Single Resolution Mechanism at a date subsequent to the date of application of this Agreement should be made respecting the principle of equality of treatment with the Contracting Parties that participate in the Single Supervisory Mechanism and in the Single Resolution Mechanism at the date of application of this Agreement. Contracting Parties participating in the Single Supervisory Mechanism and in the Single Resolution Mechanism at the date of application of this Agreement are not supposed to bear the burden of resolutions to which the national financial arrangements of those participating at a later stage were supposed to contribute. Likewise, the latter are not supposed to bear the cost of resolutions, arising before the date when they become participating Member States, for which the Fund should be liable.

(24) In the event that the close cooperation with the ECB of a Contracting Party, whose currency is not the euro, is terminated in accordance with Article 7 of Regulation (EU) No. 1024/2013, a fair partition of the cumulated contributions from the Contracting Party concerned should be decided taking into account the interests of both the Contracting Party concerned and the Fund. Accordingly, Article 4(3) of the SRM Regulation lays down the modalities, criteria and the procedure for the Board to agree with the Member State concerned by termination of close cooperation on the recoupment of contributions transferred by that Member State.

(25) While fully respecting the procedures and requirements of the Treaties on which the European Union is founded, the Contracting Parties' objective is to incorporate the substance provisions of this Agreement, in accordance with the TEU and the TFEU as soon as possible into the legal framework of the Union.

HAVE AGREED UPON THE FOLLOWING PROVISIONS:

TITLE I

PURPOSE AND SCOPE

ARTICLE 1

1. By this Agreement, the Contracting Parties commit to:

(a) transferring the contributions raised at national level in accordance with the BRR Directive and the SRM Regulation to the Single Resolution Fund ("the Fund") established by that Regulation; and

(b) allocating, during a transitional period starting at the date of application of this Agreement as determined under Article 12(2) of this Agreement and elapsing at the date when the Fund reaches the target level fixed in Article 69 of the SRM Regulation but not later than 8 years after the date of application of this Agreement (the transitional period), the contributions they raise at national level in accordance with the SRM Regulation and the BRR Directive to different compartments corresponding to each Contracting Party. The use of the compartments shall be subject to a progressive mutualisation in such a manner that they will cease to exist at the end of the transitional period,

thereby supporting the effective operations and functioning of the Fund.

2. This Agreement shall apply to the Contracting Parties whose institutions are subject to the Single Supervisory Mechanism and the Single Resolution Mechanism, in accordance with the relevant provisions of, respectively, Regulation (EU) No. 1024/2013 and of the SRM Regulation (the Contracting Parties participating in the Single Supervisory Mechanism and in the Single Resolution Mechanism).

TITLE II

CONSISTENCY AND RELATIONSHIP WITH THE LAW OF THE UNION

ARTICLE 2

1. This Agreement shall be applied and interpreted by the Contracting Parties in conformity with the Treaties on which the European Union is founded and with European Union law, in particular Article 4(3) of the TEU and Union legislation concerning the resolution of institutions.

2. This Agreement shall apply insofar as it is compatible with the Treaties on which the European Union is founded and with the Union law. It shall not encroach upon the competences of the Union to act in the field of the internal market.

3. For the purposes of this Agreement, the relevant definitions set out in Article 3 of the SRM Regulation shall apply.

TITLE III

TRANSFER OF CONTRIBUTIONS AND COMPARTMENTS

ARTICLE 3
Transfer of contributions

1. The Contracting Parties jointly commit to irrevocably transfer to the Fund the contributions that they raise from the institutions authorised in each of their territories by virtue of Articles 70 and 71 of the SRM Regulation, and in accordance with the criteria laid down therein and in the delegated and implementing acts to which they refer. The transfer of contributions shall take place in accordance with the conditions laid down under Articles 4 to 10 of this Agreement.

2. The Contracting Parties shall transfer the *ex ante* contributions corresponding to every year by 30 June of that year at the latest. The initial transfer of *ex ante* contributions to the Fund will take place by 30 June 2016 at the latest or, if the Agreement has not entered into force by that date, six months after its date of entry into force at the latest.

3. Contributions raised by the Contracting Parties in accordance with Articles 103 and 104 of the BRR Directive before the date of application of this Agreement shall be transferred to the Fund by 31 January 2016 at the latest or, if the Agreement has not entered into force by that date, one month after its date of entry into force at the latest.

4. Any amount disbursed by the resolution financing arrangement of a Contracting Party before the date of application of this Agreement in respect of resolution actions within its territory shall be deducted from those contributions to be transferred by that Contracting Party towards the Fund referred to in paragraph 3. In such a case, the Contracting Party in question shall remain bound to transfer towards the Fund an amount equivalent to that which would have been necessary to achieve the target level of its resolution financing arrangement, in accordance with Article 102 of the BRR Directive and within the deadlines therein provided.

5. The Contracting Parties shall transfer *ex post* contributions immediately after their collection.

ARTICLE 4
Compartments

1. During the transitional period contributions raised at national level shall be transferred to the Fund in such a manner that they are allocated to compartments corresponding to each Contracting Party.

2. The size of the compartments of each Contracting Party shall be equal to the totality of contributions payable by the institutions authorized in each of their territories pursuant to Articles 69 and 70 of the SRM Regulation as well as to the delegated and implementing acts referred to therein.

3. The Board shall, at the date of entry into force of this Agreement, draw a list for information purposes only detailing the size of the compartments of each Contracting Party. That list shall be updated every year of the transitional period.

ARTICLE 5
Functioning of the compartments

1. Where in accordance with the relevant provisions of the SRM Regulation recourse to the Fund is decided, the Board shall have the power to dispose of the compartments of the Fund in the following manner:

(*a*) In the first place, costs shall be borne by the compartments corresponding to the Contracting Parties where the institution or the group under resolution are established or authorised. When a cross-border group is under resolution, costs shall be distributed between the different compartments corresponding to the Contracting Parties where the parent undertaking and subsidiaries are established or authorised in proportion to the relative amount of contributions that each of the entities of the group under resolution has provided to their respective compartments with respect to the aggregate amount of contributions that all the entities of the group have provided to their national compartments.

In case a Contracting Party where the parent undertaking or subsidiary are established or authorised considers that the application of this criterion for distribution of costs referred to in the first subparagraph leads to a large asymmetry between the distribution of costs between compartments and the risk profile of the entities concerned by resolution, it may request to the Board to consider, additionally and without any delay, the criteria laid down under Article 107(5) of the BRR Directive. If the Board does not follow the request submitted by the Contracting Party concerned, it shall explain its position publicly.

Recourse shall be had to the financial means available within the compartments corresponding to the Contracting Parties referred to in the first subparagraph, up to the cost that each national compartment is due to contribute according to the criteria for distribution of costs laid down in the first and second subparagraphs, in the following manner:

- during the first year of the transitional period, recourse shall be had to all the financial means available within the said compartments;
- during the second and third year of the transitional period, recourse shall be had to the 60% and 40% respectively of financial means available within the said compartments;
- during the subsequent years of the transitional period, the availability of the financial means in the compartments corresponding to these relevant Contracting Parties shall decrease annually by 6⅔ percentage points.

The referred decrease per year of the availability of financial means in the compartments corresponding to the relevant Contracting Parties shall be spread evenly per quarter.

(b) In the second place, if financial means available in the compartments of the Contracting Parties concerned referred to in point (a) are not sufficient to comply with the mission of the Fund as referred to in Article 76 of the SRM Regulation, recourse shall be had to the available financial means in the compartments of the Fund corresponding to all the Contracting Parties.

The financial means available in the compartments of all the Contracting Parties shall be supplemented, to the same degree specified in the third subparagraph of this point, by the remaining financial means in the national compartments corresponding to the Contracting Parties concerned by resolution referred to in point (a).

In case of a cross-border group resolution, the allocation of financial means made available between the compartments of the Contracting Parties concerned pursuant to the first and second subparagraphs of this point shall follow the same key for the distribution of costs among them, as laid down under point (a). If the institution or institutions authorised in one of the Contracting Parties concerned subject to the group resolution do not need the totality of the financial means available under this point (b), the available financial means not needed under this point (b) shall be used in the resolution of the entities authorised in the other Contracting Parties concerned by the group resolution.

During the transitional period, recourse to all the national compartments of the Contracting Parties shall be made in the following manner:

- during the first and second year of the transitional period, recourse shall be had to the 40% and 60% respectively of the financial means available within the said compartments;
- during the subsequent years of the transition period, the availability of the financial means in the said compartments shall increase annually by 6⅔ percentage points.

The referred increase per year of the availability of the financial means in all the national compartments of the Contracting Parties shall be spread evenly per quarter.

(c) In the third place, if the financial means used in accordance with point (b) are not sufficient to comply with the mission of the Fund as referred to in Article 76 of the SRM Regulation, recourse shall be had to any remaining financial means in the compartments corresponding to the Contracting Parties concerned referred to in point (a).

In case of cross-border group resolution, recourse shall be had to the compartments of the Contracting Parties concerned that have not provided enough financial means under points (a) and (b) in relation to the resolution of entities authorised in their territories. Contributions by each compartment shall be determined according to the criteria for distribution of costs laid down in point (a).

(d) In the fourth place, and without prejudice to the powers of the Board referred to under point (e), if the financial means referred to in point (c) are not sufficient to cover the costs of a particular resolution action, the Contracting Parties concerned referred to in point (a) shall transfer to the Fund the extraordinary *ex post* contributions from the institutions authorized in their respective territories, raised in accordance with the criteria laid down in Article 71 of the SRM Regulation.

In the case of cross-border group resolution, *ex post* contributions shall be transferred by the Contracting Parties concerned that have not provided enough financial means under points (a) to (c) in relation to the resolution of entities authorised in their territories.

(e) If the financial means referred to in point (c) are not sufficient to cover the costs of a particular resolution action, and as long as extraordinary *ex post* contributions referred to in point (d) are not immediately accessible, including for reasons relating to the stability of the institutions concerned, the Board may exercise its power to contract for the Fund borrowings or other forms of support in accordance with Articles 73 and 74 of the SRM Regulation, or its power to make temporary transfers between compartments in accordance with Article 7 of this Agreement.

In case the Board decides to exercise the powers referred to in the first subparagraph of this point, the Contracting Parties concerned referred to in point (d) shall transfer to the Fund the extraordinary *ex post* contributions in order to reimburse the borrowings or other form of support, or the temporary transfer between compartments.

2. Returns of investments of the amounts transferred to the Fund, in accordance with Article 75 of the SRM Regulation, shall be allocated to each of the compartments pro rata on the basis of their respective available financial means, excluding any claims or irrevocable payment commitments for the purposes of Article 76 of the SRM Regulation attributable to each compartment. Returns of

investments of the resolution operations that the Fund may undertake, in accordance with Article 76 of the SRM Regulation, shall be allocated to each of the compartments *pro rata* on the basis of their respective contribution to a particular resolution action.

3. All the compartments shall be merged and shall cease to exist after the elapsing of the transitional period.

ARTICLE 6

Transfer of additional *ex ante* contributions and target level

1. The Contracting Parties shall ensure that, where appropriate, they replenish the Fund through *ex ante* contributions, to be paid within the periods laid down in Article 69(2), (3) and (5)(a) of the SRM Regulation in an amount equivalent to that required to achieve the target level specified in Article 69(1) of the SRM Regulation.

2. During the transitional period, the transfer of contributions related to replenishment shall be distributed between the compartments in the following manner:

(a) the Contracting Parties concerned by resolution shall transfer contributions to the part of their compartment that has not yet been subject to mutualisation in accordance with points (a) and (b) of Article 5(1);

(b) all the Contracting Parties shall transfer contributions to the part of their respective compartments subject to mutualisation in accordance with points (a) and (b) of Article 5(1).

ARTICLE 7

Temporary transfer between compartments

1. Without prejudice to the obligations laid down under points (a) to (d) of Article 5(1), the Contracting Parties concerned by resolution may, during the transitional period, request to the Board to temporarily make use of the part of the financial means available in the compartments of the Fund not yet mutualised corresponding to the other Contracting Parties. In such a case, the Contracting Parties concerned shall subsequently transfer to the Fund, before the transitional period has elapsed, extraordinary *ex post* contributions in an amount equivalent to the one received by their compartments, plus the interest accrued, so that the other compartments are refunded.

2. The amount temporarily transferred from each of the compartments to the recipient ones shall be pro rata to their size, as determined under Article 4(2) and shall not exceed 50% of the available financial means within each compartment not yet subject to mutualisation. In case of cross-border group resolution, the allocation of financial means made available between the compartments of the Contracting Parties concerned pursuant to this paragraph shall follow the same key for the distribution of costs among them, as laid down under point (a) of Article 5(1).

3. Decisions of the Board on the request for the temporary transfer of financial means between compartments referred to in paragraph 1 shall be taken by simple majority of the members of its plenary session, as specified in Article 52(1) of the SRM Regulation. In its decision on temporary transfer, the Board shall specify the rate of interest, the period for refunding and other terms and conditions concerning the transfer of financial means between compartments.

4. The decision of the Board agreeing on the temporary transfer of financial means referred to in paragraph 3 may only enter into force if no objection has been expressed by any of the Contracting Parties from whose compartments the transfer

has been made within a period of four calendar days since the date of adoption of the decision.

During the transitional period, the right of objection of a Contracting Party may only be exercised if:

(a) it might require the financial means from the national compartment that corresponds to it to finance a resolution operation in the near term or if the temporary transfer would jeopardise the conduct of an ongoing resolution action within its territory;

(b) the temporary transfer would take more than the 25% of its part of the national compartment not yet subject to mutualisation in accordance with points (a) and (b) of Article 5(1); or

(c) it considers that the Contracting Party whose compartment benefits from the temporary transfer is not providing guarantees of refunding from national sources or support from the ESM in line with agreed procedures.

The Contracting Party intending to object shall duly substantiate the occurrence of any of the circumstances referred to in points (a) to (c).

In case objections are raised in accordance with this paragraph, the decision on temporary transfer of the Board shall be adopted excluding the financial means of the compartments of the objecting Contracting Parties.

5. If an institution of a Contracting Party from whose compartment financial means have been transferred by virtue of this Article is subject to resolution, that Contracting Party may request the Board to transfer from the Fund to its compartment an amount equivalent to that initially transferred from that compartment. The Board shall, upon such a request, agree immediately on the transfer.

In such a case, the Contracting Parties that initially benefited from the temporary use of financial means shall be held liable to transfer to the Fund the amounts allocated to the Contracting Party concerned pursuant to the first subparagraph, in accordance with the terms and conditions to be specified by the Board.

6. The Board shall specify general criteria determining the conditions upon which the temporary transfer of financial means among compartments envisaged in this Article shall take place.

ARTICLE 8

Contracting Parties whose currency is not the euro

1. In the case that at a date subsequent to the one of application of this Agreement under Article 12(2) a decision is adopted by the Council of the European Union abrogating the derogation of a Contracting Party whose currency is not the euro, as defined in Article 139(1) TFEU or its exemption, as referred to in Protocol (No. 16) on certain provisions related to Denmark annexed to the TEU and the TFEU ("Protocol on certain provisions related to Denmark") or if, in the absence of any such decision, a Contracting Party whose currency is not the euro becomes part of the Single Supervisory Mechanism and of the Single Resolution Mechanism, it shall transfer towards the Fund an amount of contributions raised in its territory equivalent to the part of the total target level for its national compartment calculated in accordance with Article 4(2), thus equal to that which would have been transferred by the Contracting Party concerned if it had participated in the Single Supervisory Mechanism and the Single Resolution Mechanism since the date of

application of this Agreement under Article 12(2).

2. Any amount disbursed by the resolution financing arrangement of a Contracting Party referred to in paragraph 1 in respect of resolution actions within its territory shall be deducted from those to be transferred by that Contracting Party towards the Fund by virtue of paragraph 1. In such a case, the Contracting Party in question shall remain bound to transfer towards the Fund an amount equivalent to that which would have been necessary to achieve the target level of its resolution financing arrangement, in accordance with Article 102 of the BRR Directive and within the deadlines therein provided.

3. The Board shall determine, in agreement with the Contracting Party concerned, the exact amount of contributions to be transferred by it, pursuant to the criteria laid down in paragraphs 1 and 2.

4. The costs of any resolution action initiated in the territory of the Contracting Parties whose currency is not the euro before the date when the decision abrogating their derogation, as defined in Article 139(1) TFEU, or their exemption, as referred to in the Protocol on certain provisions related to Denmark, takes effect or before the date of entry into force of the decision of the ECB on close cooperation referred to in Article 7(2) of Regulation (EU) No. 1024/2013 shall not be borne by the Fund.

If the ECB, in its comprehensive assessment of the credit institutions referred to in point (b) of Article 7(2) of Regulation (EU) No. 1024/2013, considers that any of the institutions of the Contracting Parties concerned is failing or likely to fail, resolution costs of resolution actions of those credit institutions shall not be borne by the Fund.

5. In case of termination of close cooperation with the ECB, contributions transferred by the Contracting Party concerned by termination are recouped in accordance with Article 4(3) of the SRM Regulation.

Termination of close cooperation with the ECB shall not affect the rights and obligations of the Contracting Parties stemming from resolution actions that have taken place during the period in which those Contracting Parties are subject to this Agreement and that are related to:

- the transfer of *ex post* contributions, under point (d) of Article 5(1);
- the replenishment of the Fund, under Article 6; and
- the temporary transfer between compartments, under Article 7.

ARTICLE 9
Respect of the general principles and objectives of resolution

1. The use of the Fund on a mutual basis and the transfer of contributions to the Fund shall be contingent upon the permanence of a legal framework on resolution whose rules are equivalent to, and lead at least to the same result of those under the SRM Regulation as laid down in the following rules, and without changing them:

(a) The procedural rules on the adoption of a resolution scheme as laid down under Article 18 of the SRM Regulation;

(b) The Board's decision-making rules as laid down in Articles 52 and 55 of the SRM Regulation;

(c) General principles concerning resolution as laid down in Article 15 of the SRM Regulation, notably the principles that the shareholders of the institution under resolution bear first losses and that the creditors of the institution under resolution bear losses after the shareholders in accordance with the order of priority of their claims, enshrined in points (a) and (b) of paragraph (1) thereof;

(d) The rules on the resolution tools referred to under Article 22(2) of the SRM Regulation, notably those concerning the application of the bail-in tool laid down under Article 27 thereof and in Articles 43 and 44 of the BRR Directive and the specific thresholds that they establish related to the imposition of losses on shareholders and on creditors and the contribution of the Fund to a particular resolution action.

2. In case the rules concerning resolution referred to in paragraph 1, provided for in the SRM Regulation as on the date of its initial adoption, are repealed, or otherwise amended against the will of any Contracting Party, including the adoption of bail-in rules in a manner which is not equivalent or that does not lead, at least, to the same and not less stringent result than that deriving from the SRM Regulation as on the date of its initial adoption, and this Contracting Party exercises its rights under public international law regarding a fundamental change of circumstances, any other Contracting Party may, on the basis of Article 14 of this Agreement, request the Court of Justice to verify the existence of a fundamental change of circumstances and the consequences ensuing from it, in accordance with public international law. In its application, any Contracting Party may request the Court of Justice to suspend the operation of a measure which is the object of the dispute, in which case Article 278 TFEU and Articles 160 to 162 of the Rules of Procedure of the Court of Justice shall be applicable.

3. The procedure referred to in paragraph 2 of this Article shall not prejudge or affect recourse to legal remedies provided for under Articles 258, 259, 260, 263, 265 and 266 TFEU.

ARTICLE 10
Compliance

1. Contracting Parties shall take the necessary measures in their national legal orders to ensure compliance with their obligation to jointly transfer the contributions in accordance with this Agreement.

2. Without prejudice to the power of the Court of Justice under Article 14 of this Agreement, the Board, acting on its own initiative or at the request of any Contracting Party, may consider whether a Contracting Party has failed to comply with its obligation to transfer the contributions to the Fund, as established in this Agreement.

In case the Board finds that a Contracting Party has failed to comply with its obligation to transfer the contributions, it shall set a deadline for the Contracting Party concerned to take the necessary measures in order to put an end to the breach. In case the Contracting Party concerned does not take the necessary measures to put an end to the breach within the deadline fixed by the Board, the use of compartments of all the Contracting Parties as laid down in point (b) of Article 5(1) shall be excluded in relation to the resolution of institutions authorised in the Contracting Party concerned. That exclusion shall cease to apply as from the moment when the Board determines that the Contracting Party concerned has taken the necessary measures to put an end to the breach.

3. Decisions of the Board under this Article shall be taken by simple majority of the Chair and the members referred to in point (b) of Article 43(1) of the SRM Regulation.

TITLE IV

GENERAL AND FINAL PROVISIONS

ARTICLE 11

Ratification, approval or acceptance and entry into force

1. This Agreement shall be subject to ratification, approval or acceptance by its signatories in accordance with their respective constitutional requirements. The instruments of ratification, approval or acceptance shall be deposited with the General Secretariat of the Council of the European Union ("the Depositary"). The Depositary shall notify the other signatories of each deposit and the date thereof.

2. This Agreement shall enter into force on the first day of the second month following the date when instruments of ratification, approval or acceptance have been deposited by signatories participating in the Single Supervisory Mechanism and in the Single Resolution Mechanism that represent no less than 90% of the aggregate of the weighted votes of all Member States participating in the Single Supervisory Mechanism and in the Single Resolution Mechanism, as determined by Protocol (No. 36) on transitional provisions annexed to the TEU and the TFEU.

ARTICLE 12

Application

1. This Agreement shall apply amongst the Contracting Parties that have deposited their instruments of ratification, approval or acceptance provided that the SRM Regulation has previously entered into force.

2. Subject to paragraph 1 of this Article, and provided that this Agreement has entered into force in accordance with Article 11(2), it shall apply as from 1 January 2016 amongst the Contracting Parties participating in the Single Supervisory Mechanism and in the Single Resolution Mechanism that have deposited their instruments of ratification, approval or acceptance by that date. If this Agreement has not entered into force by 1 January 2016 it shall apply as from its date of entry into force, amongst the Contracting Parties participating in the Single Supervisory Mechanism and in the Single Resolution Mechanism that have deposited their instruments of ratification, approval or acceptance by that date.

3. This Agreement shall apply to the Contracting Parties participating in the Single Supervisory Mechanism and in the Single Resolution Mechanism that have not deposited their instruments of ratification, approval or acceptance by the date of application under paragraph 2, as from the first day of the month following the deposit of their respective instrument of ratification, approval or acceptance.

4. This Agreement shall not apply to the Contracting Parties that have deposited their instruments of ratification, approval or acceptance but that do not participate in the Single Supervisory Mechanism and in the Single Resolution Mechanism by the date of application of this Agreement. Those Contracting Parties shall however be part of the special agreement referred to in Article 14(2) as from the date of application of this Agreement for the purposes of submitting to the Court of Justice any dispute concerning the interpretation and enforcement of Article 15.

It shall apply to the Contracting Parties referred to in the first subparagraph as from the date when the decision abrogating their derogation, as defined in Article 139(1) TFEU or their exemption, as referred to in Protocol on certain provisions related to Denmark, takes effect or, in the absence thereof, as from the date of entry into force of the ECB decision on close cooperation referred to in Article 7(2) of Regulation (EU) No. 1024/2013.

Subject to its Article 8, this Agreement shall cease to apply to the Contracting

Parties that have established the close cooperation with the ECB referred to in Article 7(2) of Regulation (EU) No. 1024/2013 as from the date of termination of that close cooperation in accordance with Article 7(8) of that Regulation.

ARTICLE 13
Accession

This Agreement shall be open to accession by Member States other than the Contracting Parties. Subject to paragraphs 1 to 3 of Article 8 accession shall be effective upon depositing the instrument of accession with the Depositary, which shall notify the other Contracting Parties thereof. Following authentication by the Contracting Parties, the text of this Agreement, in the official language of the acceding Member State that is also an official language of the institutions of the Union, shall be deposited in the archives of the Depositary as an authentic text of this Agreement.

ARTICLE 14
Dispute settlement

1. Where a Contracting Party disagrees with another Contracting Party on the interpretation of any of the provisions of this Agreement or when it considers that another Contracting Party has failed to comply with its obligations under this Agreement, it may bring the matter before the Court of Justice. The judgment of the Court of Justice shall be binding on the parties to the proceedings.

If the Court of Justice finds that a Contracting Party has failed to comply with its obligations under this Agreement, the Contracting Party concerned shall take the necessary measures to comply with the judgment within a period to be decided by the Court of Justice. In case the Contracting Party concerned does not take the necessary measures to put an end to the breach within the deadline fixed by the Court of Justice, the use of compartments of all the Contracting Parties as laid down in point (b) of Article 5(1) shall be excluded in relation to institutions authorised in the Contracting Party concerned.

2. This Article constitutes a special agreement between the Contracting Parties within the meaning of Article 273 TFEU.

3. Member States whose currency is not the euro that have not ratified this Agreement may notify the Depositary of their intention to be party to the special agreement referred to in paragraph 2 of this Article for the purposes of submitting to the Court of Justice any dispute concerning the interpretation and enforcement of Article 15. The Depositary shall communicate the notification by the Member State concerned to the Contracting Parties, upon which communication the Member State concerned shall become party to the special agreement referred to in paragraph 2 of this Article for the purposes described in this paragraph.

ARTICLE 15
Compensation

1. The Contracting Parties commit to reimburse jointly, promptly and with interest each Member State that is not participating in the Single Supervisory Mechanism and in the Single Resolution Mechanism ("non-participating Member State") for the amount that that non-participating Member State has paid in own resources corresponding to the use of the general budget of the Union in cases of non-contractual liability and costs related thereto, in respect of the exercise of powers by the institutions of the Union under the SRM Regulation.

2. The amount that each of the non-participating Member States is deemed to have contributed to the non-contractual liability and costs related thereto shall be

determined *pro rata* on the basis of their respective gross national income determined in accordance with Article 2(7) of Council Decision 2007/436/EC, Euratom* or with any ensuing Union act amending or repealing it.

3. Compensation costs shall be distributed among the Contracting Parties pro rata on the basis of the weight of their respective gross national income, as determined in accordance with Article 2(7) of Council Decision 2007/436/EC, Euratom or with any ensuing Union act amending or repealing it.

4. The non-participating Member States shall be reimbursed on the dates of the entries in the accounts referred to in Article 9(1) of Council Regulation (EC, Euratom) No. 1150/2000 #or in any ensuing Union act amending or repealing it, of the amounts corresponding to the payments from the Union budget to settle the non-contractual liability and costs related thereto following the adoption of the associated amending budget.

Any interest shall be calculated in accordance with the provisions on interest for amounts made available belatedly applicable to the Union's own resources. Amounts shall be converted between national currencies and the euro at an exchange rate determined in accordance with the first subparagraph of Article 10(3) of Council Regulation (EC, Euratom) No. 1150/2000 or with any ensuing Union act amending or repealing it.

5. The Commission shall coordinate any reimbursement action by the Contracting Parties, in accordance with the criteria laid down under paragraphs 1 to 3. The Commission's coordination role shall include calculating the basis on which payments are to be made, issuing notices to the Contracting Parties requiring payments to be made and calculating interest.

ARTICLE 16
Review

1. Within two years of the date of entry into force of this Agreement, at the latest and every 18 months thereafter, the Board shall assess and present to the European Parliament and to the Council a report on the implementation of this Agreement and in particular on the proper functioning of the mutual use of the Fund and its impact on financial stability and the internal market.

2. Within ten years of the date of entry into force of this Agreement, at the latest, on the basis of an assessment of the experience with its implementation contained in the reports drawn up by the Board in accordance with paragraph 1, the necessary steps shall be taken, in accordance with the TEU and the TFEU, with the aim of incorporating the substance of this Agreement into the legal framework of the Union.

Done at Brussels on 21 May 2014, in a single original, whose Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish texts are equally authentic, which shall be deposited in the archives of the Depositary which shall transmit a duly certified copy to each of the Contracting Parties.

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* Council Decision of 7 June 2007 on the system of the European Communities' own resources (OJ L 163, 23.6.2007, p. 17).

\# Council Regulation (EC, Euratom) No. 1150/2000 of 22 May 2000 implementing Decision 2007/436/EC, Euratom on the system of the Communities' own resources (OJ L 130, 31.5.2000, p. 1), including any subsequent amendments.

DECLARATIONS OF INTENT BY THE CONTRACTING PARTIES AND OBSERVERS OF THE INTERGOVERNMENTAL CONFERENCE THAT ARE MEMBERS OF THE COUNCIL OF THE EUROPEAN UNION TO BE DEPOSITED WITH THE AGREEMENT:

Declaration no. 1:

While fully respecting the procedural requirements of the Treaties on which the European Union is founded, the Contracting Parties and observers of the intergovernmental Conference that are members of the Council of the European Union note that it is their objective and their intention that, unless they all agree otherwise:

(a) Article 4(3) of the SRM Regulation, as on the date of its initial adoption, is not repealed or amended;

(b) the principles and rules related to the bail-in tool are not repealed or amended in a way that is not equivalent and does not lead to, at least, the same and not less stringent result than that deriving from the SRM Regulation as on the date of its initial adoption.

Declaration no. 2:

The signatories to the Intergovernmental Agreement on the transfer and mutualisation of contributions to the Single Resolution Fund declare that they will strive to complete its process of ratification in accordance with their respective national legal requirements in due time so as to permit the Single Resolution Mechanism to be fully operational by 1 January 2016.