VERŻJONI ELETTRONIKA

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,452, 14 ta' Lulju, 2015
Taqsima C

Nru. 114

14. 07. 2015

MALTA

KAMRA TAD-DEPUTATI

ABBOZZ ta' Liġi mressaq mill-Onorevoli Edward Scicluna, M.P., Ministru għall-Finanzi, u moqri għall-Ewwel darba fis-Seduta tat-8 ta' Lulju, 2015.

ATT biex jawtorizza l-Gvern ta' Malta li jidħol fi ftehim dwar it-trasferiment u l-mutwalizzazzjoni tal-kontribuzzjonijiet għall-Fond Uniku ta' Riżoluzzjoni waqt il-perjodu tranżitorju qabel il-bidu fis-seħħ tar-Regolament dwar Mekkaniżmu Uniku ta' Riżoluzzjoni u biex jipprovdi għad-dħul fi ftehim finanzjarji jew oħra jew f'arranġamenti mal-parteċipanti fil-Mekkaniżmu Uniku ta' Riżoluzzjoni.

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

HOUSE OF REPRESENTATIVES

A BILL introduced by the Honourable Edward Scicluna, M.P., Minister for Finance, and read the First time at the Sitting of the 8th July, 2015.

AN 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 before the entry into force of the Single Resolution Mechanism Regulation and to provide for the entering into financial or other agreements or arrangements with the participants of the Single Resolution Mechanism.

RAYMOND SCICLUNA
Clerk of the House of Representatives

VERŻJONI ELETTRONIKA

ABBOZZ TA' LIĠI
msejjaħ

ATT biex jawtorizza l-Gvern ta' Malta li jidħol fi ftehim dwar it-trasferiment u l-mutwalizzazzjoni tal-kontribuzzjonijiet għall-Fond Uniku ta' Riżoluzzjoni waqt il-perjodu tranżitorju qabel il-bidu fis-seħħ tar-Regolament dwar Mekkaniżmu Uniku ta' Riżoluzzjoni u biex jipprovdi għad-dħul fi ftehim finanzjarji jew oħra jew f'arranġamenti mal-parteċipanti fil-Mekkaniżmu Uniku ta' Riżoluzzjoni.

IL-PRESIDENT bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, ħarġet b'liġi dan li ġej:-

Titolu fil-qosor u bidu fis-seħħ.

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2015 dwar il-Parteċipazzjoni fil-Fond Uniku ta' Riżoluzzjoni u l-għoti ta' appoġġ finanzjarju taħt il-Mekkaniżmu Uniku ta' Riżoluzzjoni.

(2) Dan l-Att għandu jidħol fis-seħħ f'dik id-data li l-Ministru responsabbli għall-Finanzi jista', b'avviż fil-Gazzetta, jistabbilixxi, u jistgħu jiġu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti jew għanijiet differenti ta' dan l-Att.

Tifsir.

2. F'dan l-Att, sakemm ir-rabta tal-kliem ma teħtieġx xort'oħra:

"Ftehim" tfisser il-ftehim dwar it-trasferiment u l-mutwalizzazzjoni tal-kontribuzzjonijiet għall-Fond Uniku ta' Riżoluzzjoni bejn ir-Renju tal-Belġju, ir-Repubblika tal-Bulgarija, ir-Repubblika Ċeka, ir-Renju tad-Danimarka, ir-Repubblika Federali tal-Ġermanja, ir-Repubblika tal-Estonja, l-Irlanda, ir-Repubblika Ellenika, ir-Renju ta' Spanja, ir-Repubblika Franċiża, ir-Repubblika tal-Kroazja, ir-Repubblika Taljana, ir-Repubblika ta' Ċipru, ir-

VERŻJONI ELETTRONIKA

Repubblika tal-Latvja, ir-Repubblika tal-Litwanja, il-Gran Dukat tal-Lussemburgu, l-Ungerija, ir-Repubblika ta' Malta, ir-Renju tal-Pajjiżi l-Baxxi, ir-Repubblika tal-Awstrija, ir-Repubblika tal-Polonja, ir-Repubblika Portugiża, ir-Rumanija, ir-Repubblika tas-Slovenja, ir-Repubblika Slovakka u r-Repubblika tal-Finlandja tal-14 ta' Mejju 2014, anness fl-iSkeda li tinsab ma' dan l-Att;

"Malta" għandha l-istess tifsira kif mogħti lilha bl-artikolu 124 tal-Kostituzzjoni ta' Malta;

"Ministru" tfisser il-Ministru responsabbli għall-Finanzi;

"Mekkaniżmu Uniku ta' Riżoluzzjoni" tfisser il-mekkaniżmu stabbilit permezz tar-Regolament (UE) Nru. 806/2014 tal-Parlament Ewropew u tal-Kunsill tal-15 ta' Lulju 2014 li jistabbilixxi regoli uniformi u proċedura uniformi għar-riżoluzzjoni ta' istituzzjonijiet ta' kreditu u ċerti ditti ta' investiment fil-qafas ta' Mekkaniżmu Uniku ta' Riżoluzzjoni u li jemenda r-Regolament (UE) Nru 1093/2010 tal-Parlament Ewropew u tal-Kunsill;

"Fond Uniku ta' Riżoluzzjoni" tfisser il-fond stabbilit skont ir-Regolament (UE) Nru. 806/2014 tal-Parlament Ewropew u tal-Kunsill tal-15 ta' Lulju 2014 li jistabbilixxi regoli uniformi u proċedura uniformi għar-riżoluzzjoni ta' istituzzjonijiet ta' kreditu u ċerti ditti ta' investiment fil-qafas ta' Mekkaniżmu Uniku ta' Riżoluzzjoni u li jemenda r-Regolament (UE) Nru 1093/2010 tal-Parlament Ewropew u tal-Kunsill;

"Mekkaniżmu Superviżorju Uniku" tfisser il-mekkaniżmu stabbilit permezz tar-Regolament tal-Kunsill (UE) Nru 1024/2013 tal-15 ta' Ottubru 2013 li jikkonferixxi kompiti speċifiċi lill-Bank Ċentrali Ewropew rigward politiki relatati mas-superviżjoni prudenzjali ta' istituzzjonijiet ta' kreditu.

Autorità biex wieħed jipparteċipa fil-Fond Uniku ta' Riżoluzzjoni.

3. (1) Mingħajr ħsara għad-dispożizzjonijiet ta' dan l-Att, il-Gvern ta' Malta għandu jipparteċipa fil-Ftehim li għandu x'jaqsam mat-trasferiment u l-mutwalizzazzjoni ta' kontribuzzjonijiet għall-Fond Uniku ta' Riżoluzzjoni matul il-perjodu ta' transizzjoni qabel id-dħul fis-seħħ tar-Regolament dwar il-Mekkaniżmu Uniku ta' Riżoluzzjoni, skont it-termini u l-kondizzjonijiet stabbiliti fil-Ftehim, kif dan jista' jiġi emendat minn żmien għal żmien, għall-għanijiet identifikati taħt is-subartikolu (2).

(2) Il-Ftehim jipprovdi għar-regoli u proċeduri uniformi għat-trasferiment ta' kontribuzzjonijiet għall-Fond Uniku ta' Riżoluzzjoni u biex isir użu mill-kompartimenti allokati lil Stati Membri parteċipanti fil-Fond Uniku ta' Riżoluzzjoni fi żmienijiet meta jkun

hemm kriżijiet fl-ekonomiji.

4. Il-Gvern ta’ Malta hu b’dan awtorizzat li jirratifika l-Ftehim.

Ratifika tal-Ftehim.

5. Kull kontribuzzjoni mogħtija mill-Gvern ta’ Malta, lil hinn mill-għan speċifikat taħt l-artikolu 3(2), tista’ issir biss b’dak il-mod u għal dak il-għan kif il-Kamra tad-Deputati tista’ iddeċiedi permezz ta’ riżoluzzjoni.

Għoti ta’ kontribuzzjoniji et waqt il-perjodu tranżitorju.

6. Il-Ministru jista’ jagħmel regolamenti biex jitwettqu l-obbligi li jinsabu fil-Ftehim.

Setgħa biex isiru regolamenti.

7. Il-Ministru għandu jidher għall-inqas darba fis-sena quddiem il-Kumitat tal-Kontijiet Pubbliċi jew quddiem kumitat ieħor tal-Kamra tad-Deputati li minn żmien għall żmieni jista’ jkollu l-kompitu tal-iskrutinju ekonomiku u finanzjarju tal-Gvern sabiex jingħata rendikont tal-operat tal-Fond Uniku ta’ Riżoluzzjoni sa fejn dan ikun konformi mal-obbligi ta’ Malta.

Kumitat tal-Kontijiet Pubbliċi.

SKEDA

(Artikolu 2)

FTEHIM
DWAR IT-TRASFERIMENT U L-MUTWALIZZAZZJONI TAL-KONTRIBUZZJONIJIET GĦALL-FOND UNIKU TA' RIŻOLUZZJONI

IL-PARTIJIET KONTRAENTI, ir-Renju tal-Belġju, ir-Repubblika tal-Bulgarija, ir-Repubblika Ċeka, ir-Renju tad-Danimarka, ir-Repubblika Federali tal-Ġermanja, ir-Repubblika tal-Estonja, l-Irlanda, ir-Repubblika Ellenika, ir-Renju ta’ Spanja, ir-Repubblika Franċiża, ir-Repubblika tal-Kroazja, ir-Repubblika Taljana, ir-Repubblika ta’ Ċipru, ir-Repubblika tal-Latvja, ir-Repubblika tal-Litwanja, il-Gran Dukat tal-Lussemburgu, l-Ungerija, ir-Repubblika ta’ Malta, ir-Renju tal-Pajjiżi l-Baxxi, ir-Repubblika tal-Awstrija, ir-Repubblika tal-Polonja, ir-Repubblika Portugiża, ir-Rumanija, ir-Repubblika tas-Slovenja, ir-Repubblika Slovakka u r-Repubblika tal-Finlandja;

IMPENJAW RUĦHOM li jistabbilixxu qafas finanzjarju integrat fl-Unjoni Ewropea li tiegħu l-unjoni bankarja tikkostitwixxi parti fundamentali;

FILWAQT LI JFAKKRU fid-Deċiżjoni tar-rappreżentanti tal-Istati Membri taż-żona tal-euro mlaqqgħin fi ħdan il-Kunsill tal-Unjoni Ewropea fit-18 ta’ Diċembru 2013, rigward in-negozjar u l-konklużjoni ta’ ftehim intergovernattiv dwar il-Fond Uniku ta’ Riżoluzzjoni (il-"Fond") stabbilit skont ir-Regolament tal-Parlament Ewropew u tal-Kunsill li jistabbilixxi regoli uniformi u proċedura uniformi għar-riżoluzzjoni tal-istituzzjonijiet ta’ kreditu u ċerti ditti tal-investiment fil-qafas ta' Mekkaniżmu Uniku ta’ Riżoluzzjoni u Fond Uniku għar-Riżoluzzjoni[1] (ir-"Regolament MUR"), kif ukoll it-Termini ta’ Referenza mehmużin ma’ dik id-Deċiżjoni;

BILLI:

(1) Fil-passat l-Unjoni Ewropea adottat għadd ta’ atti legali fundamentali għall-kisba tas-suq intern fil-qasam tas-servizzi finanzjarji u biex tiġi garantita l-istabbiltà finanzjarja taż-żona tal-euro u tal-Unjoni kollha, kif ukoll għall-proċess lejn unjoni ekonomika u monetarja aktar profonda.

(2) F’Ġunju 2009, il-Kunsill Ewropew appella għall-istabbiliment ta’ "ġabra unika Ewropea tar-regoli li tkun applikabbli għall-istituzzjonijiet finanzjarji kollha fis-Suq Uniku". Għalhekk l-Unjoni stabbilixxiet sett uniku ta’ regoli prudenzjali armonizzati li l-istituzzjonijiet ta’ kreditu fl-Unjoni kollha għandhom jirrispettaw, permezz tar-Regolament (UE) Nru 575/2013 tal-Parlament Ewropew

1 Regolament tal-Parlament Ewropew u tal-Kunsill li jistabbilixxi regoli uniformi u proċedura uniformi għar-riżoluzzjoni tal-istituzzjonijiet ta’ kreditu u ċerti ditti tal-investiment fil-qafas ta’ Mekkaniżmu Uniku ta’ Riżoluzzjoni u Fond Uniku għar-Riżoluzzjoni tal-Banek u li jemenda r-Regolament (UE) Nru 1093/2010 tal-Parlament Ewropew u tal-Kunsill.

u tal-Kunsill[1] u d-Direttiva 2013/36/UE tal-Parlament Ewropew u tal-Kunsill[2].

(3) L-Unjoni stabbilixxiet ukoll l-Awtoritajiet Superviżorji Ewropej (ASE) li ngħataw għadd ta' kompiti rigward is-superviżjoni mikroprudenzjali. Dawn huma l-Awtorità Bankarja Ewropea (ABE) stabbilita mir-Regolament (UE) Nru 1093/2010 tal-Parlament Ewropew u tal-Kunsill,[3] l-Awtorità Ewropea tal-Assigurazzjoni u l-Pensjonijiet tax-Xogħol (EIOPA) stabbilita mir-Regolament (UE) Nru 1094/2010 tal-Parlament Ewropew u tal-Kunsill[4] u l-Awtorità Ewropea tat-Titoli u s-Swieq (ESMA) stabbilita mir-Regolament (UE) Nru 1095/2010 tal-Parlament Ewropew u tal-Kunsill[5]. Dak kien akkumpanjat mill-istabbiliment tal-Bord Ewropew dwar ir-Riskju Sistemiku (BERS) mir-Regolament (UE) Nru 1092/2010 tal-Parlament Ewropew u tal-Kunsill[6] li ngħata xi funzjonijiet ta' superviżjoni makroprudenzjali.

(4) L-Unjoni stabbilixxiet Mekkaniżmu Superviżorju Uniku permezz tar-Regolament tal-Kunsill (UE) Nru 1024/2013[7], li jikkonferixxi kompiti speċifiċi lill-Bank Ċentrali Ewropew (BĊE) rigward politiki relatati mas-superviżjoni prudenzjali ta' istituzzjonijiet ta' kreditu, u li jikkonferixxi lill-BĊE, filwaqt li jaġixxi b'mod konġunt mal-awtoritajiet kompetenti nazzjonali, setgħat ta' superviżjoni fuq l-istituzzjonijiet ta' kreditu stabbiliti fl-Istati Membri li l-munita tagħhom hija l-euro u fl-Istati Membri li l-munita tagħhom mhijiex l-euro li stabbilixxu kooperazzjoni mill-qrib mal-BĊE għal finijiet ta' superviżjoni (l-"Istati Membri parteċipanti").

(5) Permezz tad-Direttiva tal-Parlament Ewropew u tal-Kunsill li tistabbilixxi qafas għall-irkupru u r-riżoluzzjoni ta' istituzzjonijiet ta' kreditu u ditti ta' investiment[8] ("id-Direttiva BRR"), l-Unjoni tarmonizza l-liġijiet u r-

1 Regolament (UE) 575/2013 tal-Parlament Ewropew u tal-Kunsill tas-26 ta' Ġunju 2013 dwar ir-rekwiżiti prudenzjali għall-istituzzjonijiet ta' kreditu u d-ditti tal-investiment u li jemenda r-Regolament (UE) Nru 648/2012 (ĠU L 176, 27.6.2013, p. 1).

2 Direttiva 2013/36/UE tal-Parlament Ewropew u tal-Kunsill tas-26 ta' Ġunju 2013 dwar l-aċċess għall-attività tal-istituzzjonijiet ta' kreditu u s-superviżjoni prudenzjali tal-istituzzjonijiet ta' kreditu u tad-ditti tal-investiment, li temenda d-Direttiva 2002/87/KE u li tħassar id-Direttivi 2006/48/KE u 2006/49/KE (ĠU L 176, 27.6.2013, p. 338).

3 Regolament (UE) Nru 1093/2010 tal-Parlament Ewropew u tal-Kunsill tal-24 ta' Novembru 2010 li jistabbilixxi Awtorità Superviżorja Ewropea (Awtorità Bankarja Ewropea) u li jemenda d-Deċiżjoni Nru 716/2009/KE u jħassar id-Deċiżjoni tal-Kummissjoni 2009/78/KE (ĠU L 331, 15.12.2010, p. 12).

4 Regolament (UE) Nru 1094/2010 tal-Parlament Ewropew u tal-Kunsill tal-24 ta' Novembru 2010 li jistabbilixxi Awtorità Superviżorja Ewropea (Awtorità Ewropea tal-Assigurazzjoni u l-Pensjonijiet tax-Xogħol), u li jemenda d-Deċiżjoni Nru 716/2009/KE u li jħassar id-Deċiżjoni tal-Kummissjoni 2009/79/KE (ĠU L 331, 15.12.2010, p. 48).

5 Regolament (UE) Nru 1095/2010 tal-Parlament Ewropew u tal-Kunsill tal-24 ta' Novembru 2010 li jistabbilixxi Awtorità Superviżorja Ewropea (Awtorità Ewropea tat-Titoli u s-Swieq) u li jemenda d-Deċiżjoni Nru 716/2009/KE u jħassar id-Deċiżjoni tal-Kummissjoni 2009/77/KE (ĠU L 331, 15.12.2010, p. 84).

6 Regolament (UE) Nru 1092/2010 tal-Parlament Ewropew u tal-Kunsill tal-24 ta' Novembru 2010 dwar is-sorveljanza makroprudenzjali tal-Unjoni tas-sistema finanzjarja u li jistabbilixxi Bord Ewropew dwar ir-Riskju Sistemiku (ĠU L 331, 15.12.2010, p. 1).

regolamenti nazzjonali dwar ir-riżoluzzjoni ta' istituzzjonijiet ta' kreditu u ċerti ditti ta' investiment, inkluż l-istabbiliment ta' arranġamenti nazzjonali għall-finanzjament ta' riżoluzzjoni.

(6) Il-Kunsill Ewropew tat-13 u l-14 ta' Diċembru 2012 iddikjara li "F'kuntest fejn is-superviżjoni tal-banek effettivament titressaq lejn mekkaniżmu superviżorju uniku, ser ikun meħtieġ mekkaniżmu uniku ta' riżoluzzjoni, bis-setgħat meħtieġa biex jiżgura li kwalunkwe bank fl-Istati Membri parteċipanti jkun jista' jiġi riżolt bl-għodod adegwati". Il-Kunsill Ewropew tat-13 u l-14 ta' Diċembru 2012 kompla jiddikjara li "Il-mekkaniżmu uniku ta' riżoluzzjoni għandu jkun ibbażat fuq kontribuzzjonijiet mis-settur finanzjarju nnifsu u jinkludi arranġamenti ta' salvagwardja effettivi u adatti. Dan l-arranġament ta' salvagwardja għandu jkun newtrali f'termini ta' baġit fuq it-terminu medju, billi jiżgura li l-imposti *ex post* fuq l-industrija finanzjarja jagħmlu tajjeb għall-assistenza pubblika". F'dak il-kuntest, l-Unjoni adottat ir-Regolament MUR li joħloq sistema ċentralizzata ta' teħid ta' deċiżjoni għal riżoluzzjoni, li jkollha l-mezzi ta' finanzjament adegwati permezz tal-istabbiliment tal-Fond. Ir-Regolament MUR japplika għall-entitajiet li jinsabu fl-Istati Membri parteċipanti.

(7) Ir-Regolament MUR jistabbilixxi, b'mod partikolari, il-Fond kif ukoll il-modalitajiet għall-użu tiegħu. Id-Direttiva BRR u r-Regolament MUR jistabbilixxu l-kriterji ġenerali għad-determinazzjoni tal-iffissar u l-kalkolu ta' kontribuzzjonijiet *ex ante* u *ex post* tal-istituzzjonijiet li huma neċessarji għall-finanzjament tal-Fond, kif ukoll l-obbligu tal-Istati Membri li jimponuhom fil-livell nazzjonali. Madankollu, l-Istati Membri parteċipanti li jiġbru l-kontribuzzjonijiet tal-istituzzjonijiet li jinsabu fit-territorji rispettivi tagħhom skont id-Direttiva BRR u r-Regolament MUR, jibqgħu kompetenti biex jittrasferixxu dawk il-kontribuzzjonijiet lejn il-Fond. L-obbligu tat-trasferiment tal-kontribuzzjonijiet miġbura fil-livell nazzjonali għall-Fond mhux derivat mid-dritt tal-Unjoni. Obbligu bħal dan ser jiġi stabbilit minn dan il-Ftehim li jistabbilixxi l-kondizzjonijiet li bihom il-Partijiet Kontraenti, f'konformità mar-rekwiżiti kostituzzjonali rispettivi tagħhom, jaqblu b'mod konġunt li jittrasferixxu l-kontribuzzjonijiet li huma jiġbru fil-livell nazzjonali għall-Fond.

(8) Il-kompetenza ta' kull wieħed mill-Istati Membri parteċipanti li jittrasferixxi l-kontribuzzjonijiet miġbura fil-livell nazzjonali għandha tiġi eżerċitata b'tali mod li jirrispetta l-prinċipju ta' kooperazzjoni sinċiera ddikjarat fl-Artikolu 4(3) tat-Trattat dwar l-Unjoni Ewropea (TUE), skont liema, l-Istati Membri għandhom, fost oħrajn, jiffaċilitaw it-twettiq tal-kompiti tal-Unjoni u

7 Regolament tal-Kunsill (UE) Nru 1024/2013 tal-15 ta' Ottubru 2013 li jikkonferixxi kompiti speċifiċi lill-Bank Ċentrali Ewropew fir-rigward ta' politiki relatati mas-superviżjoni prudenzjali ta' istituzzjonijiet ta' kreditu (ĠU L 287, 29.10.2013, p. 63).

8 Direttiva tal-Parlament Ewropew u tal-Kunsill li tistabbilixxi qafas għall-irkupru u r-riżoluzzjoni ta' istituzzjonijiet ta' kreditu u ditti ta' investiment u li temenda d-Direttiva tal-Kunsill 82/891/KEE, u d-Direttivi 2001/24/KE, 2002/47/KE, 2004/25/KE, 2005/56/KE, 2007/36/KE, 2011/35/UE, 2012/30/UE u 2013/36/UE, u r-Regolamenti (UE) Nru 1093/2010 u (UE) Nru 648/2012, tal-Parlament Ewropew u tal-Kunsill.

joqogħdu lura minn kwalunkwe miżura li tista' thedded l-ilħuq tal-objettivi tal-Unjoni. Għal dik ir-raġuni, l-Istati Membri parteċipanti għandhom jiżguraw li r-riżorsi finanzjarji jiġu diretti b'mod uniformi lejn il-Fond, b'hekk jiggarantixxu l-funzjonament tajjeb tiegħu.

(9) Għaldaqstant, il-Partijiet Kontraenti kkonkludew dan il-Ftehim li bih, fost oħrajn, huma jistabbilixxu l-obbligu tagħhom li jittrasferixxu l-kontribuzzjonijiet miġbura fil-livell nazzjonali lejn il-Fond, skont kriterji, modalitajiet u kondizzjonijiet uniformi, b'mod partikolari, l-allokazzjoni matul perijodu tranżitorju tal-kontribuzzjonijiet li huma jiġbru fil-livell nazzjonali f'kompartimenti differenti li jikkorrispondu għal kull Parti Kontraenti, kif ukoll il-mutwalizzazzjoni progressiva tal-użu tal-kompartimenti b'tali mod li l-kompartimenti ma jibqgħux jeżistu fi tmiem dak il-perijodu tranżitorju.

(10) Il-Partijiet Kontraenti jfakkru li huwa l-għan tagħhom li jippreservaw kondizzjonijiet ekwivalenti ta' kompetizzjoni u li jimminimizzaw l-ispiża sħiħa ta' riżoluzzjoni għal dawk li jħallsu t-taxxa u ser jikkonsidraw il-piż kollu fuq is-setturi bankarji rispettivi fit-tfassil tal-kontribuzzjonijiet għall-Fond u t-trattament tagħhom tat-taxxa.

(11) Il-kontenut ta' dan il-Ftehim huwa limitat għal dawk l-elementi speċifiċi li jikkonċernaw il-Fond li jibqgħu fil-kompetenza tal-Istati Membri. Dan il-Ftehim ma jaffettwax regoli komuni stabbiliti taħt il-liġi tal-Unjoni u lanqas ma jibdel il-kamp ta' applikazzjoni tagħhom. Huwa pjuttost imfassal biex jikkomplementa l-leġislazzjoni tal-Unjoni dwar ir-riżoluzzjoni bankarja u biex jappoġġa u jorbot intrinsikament mal-kisba tal-politiki tal-Unjoni, b'mod partikolari l-istabbiliment tas-suq intern fil-qasam tas-servizzi finanzjarji.

(12) Il-liġijiet u r-regolamenti nazzjonali li jimplimentaw id-Direttiva BRR, inkluż dawk relatati mal-istabbiliment ta' arranġamenti ta' finanzjament nazzjonali, jibdew japplikaw mill-1 ta' Jannar 2015. Id-dispożizzjonijiet li jirrigwardaw l-istabbiliment tal-Fond skont ir-Regolament MUR, fil-prinċipju, ser ikunu applikabbli mill-1 ta' Jannar 2016. B'konsegwenza ta' dan, il-Partijiet Kontraenti ser jiġbru l-kontribuzzjonijiet indikati għall-arranġament ta' riżoluzzjoni nazzjonali ta' finanzjament li huma għandhom jistabbilixxu sad-data tal-applikazzjoni tar-Regolament MUR, id-data li fiha huma ser jibdew jiġbru l-kontribuzzjonijiet indikati għall-Fond. Sabiex tiġi rinfurzata l-kapaċità finanzjarja tal-Fond sa mill-bidu tiegħu, il-Partijiet Kontraenti jimpenjaw ruħhom li jittrasferixxu fil-Fond il-kontribuzzjonijiet li jkunu ġabru permezz tad-Direttiva BRR sad-data tal-applikazzjoni tar-Regolament MUR.

(13) Huwa rikonoxxut li jistgħu jeżistu sitwazzjonijiet fejn il-mezzi disponibbli fil-Fond ma jkunux biżżejjed biex jiffaċjaw azzjoni ta' riżoluzzjoni partikolari, u fejn il-kontribuzzjonijiet *ex post* li jkollhom jinġabru biex ikopru l-ammonti addizzjonali neċessarji ma jkunux minnufih aċċessibbli. Wara d-dikjarazzjoni tal-Grupp tal-euro u tal-Kunsill tat-18 ta' Diċembru 2013, sabiex jiġi żgurat finanzjament suffiċjenti kontinwu matul il-perijodu tranżitorju, il-Partijiet

Kontraenti kkonċernati minn azzjoni ta' riżoluzzjoni partikolari għandhom jipprovdu finanzjament interim (*bridge financing*) minn sorsi nazzjonali jew il-Mekkaniżmu Ewropew ta' Stabbiltà ("MES') f'konformità ma' proċeduri eżistenti, inkluż l-istabbiliment ta' possibbiltajiet għal trasferimenti temporanji bejn il-kompartimenti nazzjonali. Il-Partijiet Kontraenti għandu jkollhom fis-seħħ proċeduri li jippermettulhom jindirizzaw f'waqtu kwalunkwe talba għal finanzjament interim. Ser tiġi żviluppata garanzija ta' kontinġenza komuni matul il-perijodu tranżitorju. It-tali garanzija ta' kontinġenza ser tiffaċilita s-self mill-Fond. Fl-aħħar mill-aħħar is-settur bankarju ser ikun responsabbli għall-ħlas lura permezz ta' kontribuzzjonijiet fl-Istati Membri parteċipanti kollha, inklużi kontribuzzjonijiet *ex-post*. Dawk l-arranġamenti ser jiżguraw trattament ekwivalenti fil-Partijiet Kontraenti kollha li jipparteċipaw fil-Mekkaniżmu Uniku ta' Superviżjoni u fil-Mekkaniżmu Uniku ta' Riżoluzzjoni, inkluż il-Partijiet Kontraenti li jingħaqdu fi stadju aktar tard, f'termini ta' drittijiet u obbligi u kemm fil-perijodu ta' transizzjoni kif ukoll fl-istat kostanti. Dawk l-arranġamenti msemmija ser jirrispettaw kondizzjonijiet ugwali mal-Istati Membri li ma jipparteċipawx fil-Mekkaniżmu Uniku ta' Superviżjoni u fil-Mekkaniżmu Uniku ta' Riżoluzzjoni.

(14) Dan il-Ftehim għandu jiġi rratifikat mill-Istati Membri kollha li l-munita tagħhom hija l-euro u mill-Istati Membri li l-munita tagħhom mhijiex l-euro li jipparteċipaw fil-Mekkaniżmu Uniku ta' Superviżjoni u fil-Mekkaniżmu Uniku ta' Riżoluzzjoni.

(15) L-Istati Membri li l-munita tagħhom mhijiex l-euro li mhumiex Partijiet Kontraenti għandhom jaderixxu ma' dan il-Ftehim bid-drittijiet u l-obbligi kollha, f'konformità ma' dawk tal-Partijiet Kontraenti, mid-data li fiha huma jadottaw effettivament l-euro bħala l-munita tagħhom jew, inkella, mid-data tad-dħul fis-seħħ tad-deċiżjoni tal-BĊE dwar kooperazzjoni mill-qrib imsemmija fl-Artikolu 7(2) tar-Regolament (UE) Nru 1024/2013.

(16) Fil-21 ta' Mejju 2014, ir-rappreżentanti tal-Gvernijiet tal-Istati Membri awtorizzaw lill-Partijiet Kontraenti biex jitolbu lill-Kummissjoni Ewropea u lill-Bord Uniku ta' Riżoluzzjoni (il-"Bord") iwettqu l-kompiti previsti f'dan il-Ftehim.

(17) L-Artikolu 15 tar-Regolament MUR, kif ikun fid-data tal-adozzjoni inizjali tiegħu jistabbilixxi prinċipji ġenerali li jirregolaw riżoluzzjoni, skont liema l-azzjonisti tal-istituzzjoni taħt riżoluzzjoni jġarrbu l-ewwel telf u l-krerituri tal-istituzzjoni taħt riżoluzzjoni jġarrbu t-telf wara l-azzjonisti f'konformità mal-ordni ta' prijorità tal-pretensjonijiet tagħhom. Għaldaqstant, l-Artikolu 27 tar-Regolament MUR jistabbilixxi għodda ta' rikapitalizzazzjoni interna li tirrikjedi li kontribuzzjoni għall-assorbiment ta' telf u r-rikapitalizzazzjoni jammontaw għal tal-inqas 8% tal-obbligazzjonijiet totali inklużi l-fondi proprji tal-istituzzjoni taħt riżoluzzjoni, imkejla fil-ħin tal-azzjoni ta' riżoluzzjoni f'konformità mal-valwazzjoni prevista fl-Artikolu 20 tar-Regolament MUR, tkun saret mill-azzjonisti, id-detenturi ta' strumenti kapitali rilevanti u obbligazzjonijiet eliġibbli oħra permezz ta' tnizzil fil-valur, konverżjoni jew b'xi mod ieħor, u li jirrikjedi

wkoll li l-kontribuzzjoni mill-Fond ma tkunx aktar minn 5% tal-obbligazzjonijiet totali inklużi l-fondi proprji tal-istituzzjoni taħt riżoluzzjoni, imkejla fil-ħin tal-azzjoni ta' riżoluzzjoni f'konformità mal-valwazzjoni prevista fl-Artikolu 20 tar-Regolament MUR, għajr jekk l-obbligazzjonijiet kollha mhux garantiti u mhux bi preferenza, minbarra d-depożiti eliġibbli, ikunu ġew imniżżla fil-valur jew ikkonvertiti b'mod sħiħ. Barra minn hekk, l-Artikoli 18, 52 u 55 tar-Regolament MUR, kif ikun fid-data tal-adozzjoni inizjali tiegħu jistabbilixxu għadd ta' regoli proċedurali dwar it-teħid ta' deċiżjonijiet mill-Bord u l-istituzzjonijiet tal-Unjoni. Dawk l-elementi tar-Regolament MUR jikkostitwixxu bażi essenzjali għall-kunsens tal-Partijiet Kontraenti biex ikunu marbutin b'dan il-Ftehim.

(18) Il-Partijiet Kontraenti jirrikonoxxu li d-dispożizzjonijiet rilevanti tal-Konvenzjoni ta' Vjenna dwar il-Liġi tat-Trattati kif ukoll id-dritt internazzjonali konswetudinarju għandhom japplikaw fir-rigward ta' kwalunkwe bidla fundamentali ta' ċirkostanzi, li seħħet kontra l-volontà tagħhom u li taffettwa l-bażi essenzjali tal-kunsens tal-Partijiet Kontraenti li jkunu marbuta bid-dispożizzjonijiet ta' dan il-Ftehim, kif imsemmi fil-premessa (17). Il-Partijiet Kontraenti skont dan jistgħu jinvokaw il-konsegwenzi ta' kwalunkwe tibdil fundamentali ta' ċirkostanzi li jkunu seħħew kontra l-volontà tagħhom, skont id-dritt pubbliku internazzjonali. Meta Parti Kontraenti tinvoka konsegwenzi bħal dawn, kwalunkwe Parti Kontraenti oħra tista' tressaq il-kwistjoni quddiem il-Qorti tal-Ġustizzja tal-Unjoni Ewropea ("Qorti tal-Ġustizzja"). Il-Qorti tal-Ġustizzja għandha tingħata s-setgħa li tivverifika l-eżistenza ta' kwalunkwe bidla fundamentali ta' ċirkostanzi u l-konsegwenzi li jidderivaw minnha. Il-Partijiet Kontraenti jirrikonoxxu li tali invokar tal-konsegwenzi wara r-revokar jew l-emendar ta' kwalunkwe element tar-Regolament MUR imsemmija fil-premessa (17), li jkun sar kontra r-rieda ta' kwalunkwe waħda mill-Partijiet Kontraenti u li jkun suxxettibbli li jaffettwa l-bażi essenzjali tal-kunsens tagħhom li tkun marbuta mad-dispożizzjonijiet ta' dan il-Ftehim, ikun ifisser tilwima fir-rigward tal-applikazzjoni ta' dan il-Ftehim għall-finijiet tal-Artikolu 273 tat-Trattat dwar il-Funzjonament tal-Unjoni Ewropea (TFUE) li għalhekk tkun tista' tiġi ppreżentata lill-Qorti tal-Ġustizzja bis-saħħa ta' dik is-dispożizzjoni. Kwalunkwe Parti Kontraenti tista' titlob ukoll lill-Qorti tal-Ġustizzja għal miżuri interim, f'konformità mal-Artikolu 278 TFUE u l-Artikoli 160 sa 162 tar-Regoli ta' Proċedura tal-Qorti tal-Ġustizzja[1]. Meta tiddeċiedi dwar it-tilwima, kif ukoll dwar l-għoti ta' miżuri interim, il-Qorti tal-Ġustizzja għandha tieħu kont tal-obbligi tal-Partijiet Kontraenti skont it-TUE u t-TFUE, inklużi dawk relatati mal-Mekkaniżmu Uniku ta' Riżoluzzjoni u l-integrità tiegħu.

(19) Id-determinazzjoni ta' jekk l-istituzzjonijiet tal-Unjoni, il-Bord u l-awtoritajiet nazzjonali ta' riżoluzzjoni japplikawx l-għodda ta' rikapitalizzazzjoni interna f'mod li huwa kompatibbli mal-liġi tal-Unjoni taqa' taħt is-setgħat tal-Qorti tal-Ġustizzja tal-Unjoni Ewropea f'konformità mar-rimedji legali stabbiliti fit-TUE u TFUE, jiġifieri l-Artikoli 258, 259, 260, 263, 265 u 266 TFUE.

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1 Regoli tal-Proċedura tal-Qorti tal-Ġustizzja tal-25 ta' Settembru 2012 (ĠU L 265, 29.9.2012, p.1) inkluża kwalunkwe emenda sussegwenti.

(20) Bħala strument tad-dritt pubbliku internazzjonali, id-drittijiet u l-obbligi stabbiliti f'dan il-Ftehim huma soġġetti għall-prinċipji ta' reċiproċità. Għaldaqstant, il-kunsens minn kull waħda mill-Partijiet Kontraenti biex tintrabat b'dan il-Ftehim jiddependi fuq it-twettiq ekwivalenti tad-drittijiet u l-obbligi li jaqgħu fuq kull waħda mill-Partijiet Kontraenti. B'konsegwenza ta' dan, il-ksur minn kwalunkwe waħda mill-Partijiet Kontraenti tal-obbligu tagħha li tittrasferixxi l-kontribuzzjonijiet lejn il-Fond għandu jwassal għall-esklużjoni tal-entitajiet awtorizzati fit-territorji tagħhom mill-aċċess għall-Fond. Il-Bord u l-Qorti tal-Ġustizzja għandhom jingħataw is-setgħa li jiddeterminaw u jiddikjaraw jekk il-Partijiet Kontraenti kisrux l-impenn tagħhom li jittrasferixxu l-kontribuzzjonijiet, f'konformità mal-proċeduri stabbiliti f'dan il-Ftehim. Il-Partijiet Kontraenti jirrikonoxxu li f'każ ta' ksur tal-obbligu tat-trasferiment tal-kontribuzzjonijiet, l-unika konsegwenza legali tkun l-esklużjoni tal-Parti Kontraenti li tkun wettqet il-ksur mill-finanzjament taħt il-Fond u li l-obbligi tal-Partijiet Kontraenti l-oħra taħt il-Ftehim għandhom jibqgħu mhux affettwati.

(21) Dan il-Ftehim jistabbilixxi mekkaniżmu li permezz tiegħu l-Istati Membri parteċipanti jintrabtu li jirrifondu b'mod konġunt, fil-pront u bl-imgħax lil kull Stat Membru li ma jipparteċipax fil-Mekkaniżmu Superviżorju Uniku u fil-Mekkaniżmu Uniku ta' Riżoluzzjoni, l-ammont li dak l-Istat Membru mhux parteċipanti jkun ħallas f'riżorsi proprji li jikkorrispondi għall-użu tal-baġit ġenerali tal-Unjoni f'każijiet ta' responsabbiltà mhux kuntrattwali u spejjeż relatati magħha, fir-rigward tal-eżerċizzju tas-setgħat mill-istituzzjonijiet tal-Unjoni taħt ir-Regolament MUR. Ir-responsabbiltà ta' kull Stat Membru parteċipanti taħt dan l-arranġament għandha tkun separata u individwali, u mhux flimkien u *in solidum*, u għalhekk kull Stat Membru parteċipanti għandu jirrispondi biss għall-parti tiegħu tal-obbligu ta' rifużjoni kif determinat skont dan il-Ftehim.

(22) Tilwim rigward l-interpretazzjoni u l-applikazzjoni ta' dan il-Ftehim li jinħoloq bejn il-Partijiet Kontraenti, inkluż dak rigward il-konformità mal-obbligi stabbiliti fih, għandu jiġi ppreżentat quddiem il-ġurisdizzjoni tal-Qorti tal-Ġustizzja f'konformità mal-Artikolu 273 TFUE. L-Istati Membri li l-munita tagħhom mhijiex l-euro li mhumiex partijiet għal dan il-Ftehim għandhom ikunu jistgħu jippreżentaw kull tilwim dwar l-interpretazzjoni u l-infurzar tad-dispożizzjonijiet dwar il-kumpens għal responsabbiltà mhux kuntrattwali u spejjeż relatati magħhom stabbiliti f'dan il-Ftehim lill-Qorti tal-Ġustizzja.

(23) It-trasferiment ta' kontribuzzjonijiet mill-Partijiet Kontraenti li jsiru parti mill-Mekkaniżmu Superviżorju Uniku u mill-Mekkaniżmu Uniku ta' Riżoluzzjoni f'data sussegwenti għad-data ta' applikazzjoni ta' dan il-Ftehim għandu jsir b'rispett lejn il-prinċipju tal-ugwaljanza fit-trattament mal-Partijiet Kontraenti li jipparteċipaw fil-Mekkaniżmu Superviżorju Uniku u fil-Mekkaniżmu Uniku ta' Riżoluzzjoni fid-data tal-applikazzjoni ta' dan il-Ftehim. Il-Partijiet Kontraenti li jipparteċipaw fil-Mekkaniżmu Superviżorju Uniku u fil-Mekkaniżmu Uniku ta' Riżoluzzjoni fid-data tal-applikazzjoni ta' dan il-Ftehim mhux mistennija jerfgħu l-piż tar-riżoluzzjonijiet li għalihom kien mistenni li

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jikkontribwixxu l-arranġamenti finanzjarji nazzjonali ta' dawk li jipparteċipaw fi stadju aktar tard. Bl-istess mod, dawn tal-aħħar mhux mistennija jerfgħu l-ispiża tar-riżoluzzjonijiet li jirriżultaw qabel id-data li fiha jkunu saru Stati Membri parteċipanti, li għaliha għandu jkun responsabbli l-Fond.

(24) F'każ li l-kooperazzjoni mill-qrib mal-BĊE ta' Parti Kontraenti, li l-munita tagħha mhijiex l-euro, tintemm f'konformità mal-Artikolu 7 tar-Regolament (UE) Nru 1024/2013, għandha tittieħed deċiżjoni dwar il-qsim ġust tal-kontribuzzjonijiet kumulati mill-Parti Kontraenti kkonċernata b'kont meħud tal-interessi kemm tal-Parti Kontraenti kkonċernata kif ukoll tal-Fond. Għaldaqstant, l-Artikolu 4(3) tar-Regolament MUR jistabbilixxi l-modalitajiet, il-kriterji u l-proċedura għall-Bord sabiex jaqbel mal-Istat Membru kkonċernat bit-terminazzjoni tal-kooperazzjoni mill-qrib dwar l-irkuprar tal-kontribuzzjonijiet trasferiti minn dak l-Istat Membru.

(25) Filwaqt li jirrispettaw bis-sħiħ il-proċeduri u r-rekwiżiti tat-Trattati li fuqhom hija bbażata l-Unjoni Ewropea, l-għan tal-Partijiet Kontraenti huwa li jinkorporaw id-dispożizzjonijiet ta' sustanza ta' dan il-Ftehim, f'konformità mat-TUE u t-TFUE malajr kemm jista' jkun fil-qafas legali tal-Unjoni.

QABLU DWAR ID-DISPOŻIZZJONIJIET LI ĠEJJIN:

TITOLU I

GĦAN U KAMP TA' APPLIKAZZJONI

ARTIKOLU 1

1. B'dan il-Ftehim, il-Partijiet Kontraenti jimpenjaw ruħhom li,

(a) jittrasferixxu l-kontribuzzjonijiet miġbura fil-livell nazzjonali f'konformità mad-Direttiva BRR u mar-Regolament MUR għall-Fond Uniku ta' Riżoluzzjoni (il-"Fond") stabbilit b'dak ir-Regolament; u

(b) jallokaw, matul perijodu tranżitorju li jibda mid-data ta' applikazzjoni ta' dan il-Ftehim kif stabbilit taħt l-Artikolu 12(2) ta' dan il-Ftehim u li jiskadi fid-data li fih il-Fond jilħaq il-livell immirat iffissat fl-Artikolu 69 tar-Regolament MUR iżda mhux aktar tard minn 8 snin wara d-data ta' applikazzjoni t'' dan il-Ftehim (il-perijodu tranżitorju), il-kontribuzzjonijiet li jiġbru fil-livell nazzjonali skont ir-Regolament MUR u d-Direttiva BRR għall-kompartimenti differenti li jikkorrispondu għal kull Parti Kontraenti. L-użu tal-kompartimenti għandu jkun soġġett għal mutwalizzazzjoni progressiva b'tali mod li dawn ma jibqgħux jeżistu fi tmiem il-perijodu tranżitorju,

b'hekk jappoġġaw l-operazzjonijiet u l-funzjonament effettivi tal-Fond.

2. Dan il-Ftehim għandu japplika għall-Partijiet Kontraenti li l-

istituzzjonijiet tagħhom huma soġġetti għall-Mekkaniżmu Superviżorju Uniku u l-Mekkaniżmu Uniku ta' Riżoluzzjoni, f'konformità mad-dispożizzjonijiet rilevanti ta', rispettivament, ir-Regolament (UE) Nru 1024/2013, u r-Regolament MUR (il-Partijiet Kontraenti li jipparteċipaw fil-Mekkaniżmu Superviżorju Uniku u fil-Mekkaniżmu Uniku ta' Riżoluzzjoni).

TITOLU II

KONSISTENZA U RABTA MAL-LIĠI TAL-UNJONI

ARTIKOLU 2

1. Dan il-Ftehim għandu jiġi applikat u interpretat mill-Partijiet Kontraenti f'konformità mat-Trattati li fuqhom hija bbażata l-Unjoni Ewropea u mad-dritt tal-Unjoni Ewropea, b'mod partikolari l-Artikolu 4(3) tat-TUE u l-leġislazzjoni tal-Unjoni rigward ir-riżoluzzjoni ta' istituzzjonijiet.

2. Dan il-Ftehim għandu japplika sa fejn ikun kompatibbli mat-Trattati li fuqhom hija bbażata l-Unjoni u mal-liġi tal-Unjoni. Huwa ma għandux jaffettwa l-kompetenzi tal-Unjoni li tieħu azzjoni fil-qasam tas-suq intern.

3. Għall-finijiet ta' dan il-Ftehim, id-definizzjonijiet rilevanti stabbiliti fl-Artikolu 3 tar-Regolament MUR għandhom japplikaw.

TITOLU III

TRASFERIMENT TA' KONTRIBUZZJONIJIET U KOMPARTIMENTI

ARTIKOLU 3

Trasferiment ta' kontribuzzjonijiet

1. Il-Partijiet Kontraenti b'mod konġunt jimpenjaw ruħhom li jittrasferixxu irrevokabbilment għall-Fond, il-kontribuzzjonijiet li huma jiġbru mill-istituzzjonijiet awtorizzati f'kull wieħed mit-territorji tagħhom skont l-Artikoli 70 u 71 tar-Regolament MUR, u f'konformità mal-kriterji stabbiliti fihom u fl-atti delegati u ta' implimentazzjoni li jirreferu għalihom. It-trasferiment ta' kontribuzzjonijiet għandu jsir f'konformità mal-kondizzjonijiet stabbiliti taħt l-Artikoli 4 sa 10 ta' dan il-Ftehim.

2. Il-Partijiet Kontraenti għandhom jittrasferixxu l-kontribuzzjonijiet *ex ante* li jikkorrispondu għal kull sena sa mhux aktar tard mit-30 ta' Ġunju ta' dik is-sena. It-trasferiment inizjali tal-kontribuzzjonijiet *ex ante* għall-Fond ser isir l-aktar tard sat-30 ta' Ġunju 2016 jew, jekk il-Ftehim ma jkunx daħal fis-seħħ sa dik id-data, l-aktar tard sa sitt xhur wara d-data tad-dħul fis-seħħ tiegħu.

3. Il-kontribuzzjonijiet li nġabru mill-Partijiet Kontraenti f'konformità mal-Artikoli 103 u 104 tad-Direttiva BRR qabel id-data tal-applikazzjoni ta' dan

il-Ftehim għandhom jiġu ttrasferiti fil-Fond l-aktar tard sal-31 ta' Jannar 2016 jew, jekk il-Ftehim ma daħalx fis-seħħ sa dik id-data, l-aktar tard sa xahar wara d-dħul fis-seħħ tiegħu.

4. Kwalunkwe ammont rifuż bl-arranġament ta' finanzjament ta' riżoluzzjoni ta' Parti Kontraenti qabel id-data tal-applikazzjoni ta' dan il-Ftehim fir-rigward tal-azzjonijiet ta' riżoluzzjoni fit-territorju tagħhom għandu jitnaqqas minn dawk il-kontribuzzjonijiet li għandhom jiġu ttrasferiti minn dik il-Parti Kontraenti lejn il-Fond imsemmi fil-paragrafu 3. F'dak il-każ, il-Parti Kontraenti kkonċernata għandha tibqa' obbligata li tittrasferixxi lejn il-Fond ammont ekwivalenti għal dak li kien ikun meħtieġ biex jintlaħaq il-livell immirat tal-arranġament ta' finanzjament ta' riżoluzzjoni, skont l-Artikolu 102 tad-Direttiva BRR u qabel l-iskadenzi pprovduti hemmhekk.

5. Il-Partijiet Kontraenti għandhom jittrasferixxu l-kontribuzzjonijiet *ex post* immedjatament wara li jinġabru.

ARTIKOLU 4

Kompartimenti

1. Matul il-perijodu tranżitorju, il-kontribuzzjonijiet miġbura fil-livell nazzjonali għandhom jiġu ttrasferiti għall-Fond b'tali mod li huma jiġu allokati fil-kompartimenti korrispondenti għal kull Parti Kontraenti.

2. Id-daqs tal-kompartimenti ta' kull Parti Kontraenti għandu jkun ugwali għall-kontribuzzjonijiet totali pagabbli mill-istituzzjonijiet awtorizzati f'kull wieħed mit-territorji tagħhom skont l-Artikoli 69 u 70 tar-Regolament MUR kif ukoll l-atti delegati u ta' implimentazzjoni li jissemmew fih.

3. Fid-data tad-dħul fis-seħħ ta' dan il-Ftehim, il-Bord għandu jfassal lista, għall-fini ta' informazzjoni biss, li tagħti d-dettalji dwar id-daqs tal-kompartimenti ta' kull Parti Kontraenti. Dik il-lista għandha tiġi aġġornata kull sena tal-perijodu tranżitorju.

ARTIKOLU 5

Funzjonament tal-kompartimenti

1. Meta f'konformità mad-dispożizzjonijiet rilevanti tar-Regolament MUR jiġi deċiż li jsir rikors għall-Fond, il-Bord għandu jkollu s-setgħa li jiddisponi mill-kompartimenti tal-Fond fil-mod li ġej:

(a) L-ewwel nett, l-ispejjeż għandhom jinġarru mill-kompartimenti li jikkorrispondu għall-Partijiet Kontraenti meta l-istituzzjoni jew il-grupp taħt riżoluzzjoni jkun stabbilit jew awtorizzat. Meta grupp transkonfinali jkun taħt riżoluzzjoni, l-ispejjeż għandhom jiġu distribwiti bejn il-kompartimenti differenti li jikkorrispondu għall-Partijiet Kontraenti fejn l-

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impriża prinċipali (*parent undertaking*) u s-sussidjarji jkunu stabbiliti jew awtorizzati b'mod proporzjonat mal-ammont relattiv ta' kontribuzzjonijiet li kull waħda mill-entitajiet tal-grupp taħt riżoluzzjoni tkun provdiet għall-kompartimenti rispettivi tagħhom f'relazzjoni mal-ammont aggregat ta' kontribuzzjonijiet li l-entitajiet kollha tal-grupp ikunu pprovdew għall-kompartimenti nazzjonali tagħhom.

F'każ li Parti Kontraenti, fejn hija stabbilita jew awtorizzata impriża prinċipali jew sussidjarja, tikkunsidra li l-applikazzjoni ta' dan il-kriterju għat-tqassim tal-ispejjeż imsemmi fl-ewwel subparagrafu iwassal għal assimetrija kbira bejn id-distribuzzjoni tal-ispejjeż bejn il-kompartimenti u l-profil tar-riskju tal-entitajiet ikkonċernati mir-riżoluzzjoni, hija tista' titlob lill-Bord biex jikkunsidra addizzjonalment u mingħajr dewmien il-kriterji stabbiliti skont l-Artikolu 107(5) tad-Direttiva BRR. Jekk il-Bord ma jsegwix it-talba ppreżentata mill-Parti Kontraent ikkonċernata, hi għandha tispjega l-pożizzjoni tagħha pubblikament.

Jista' jsir użu mill-mezzi finanzjarji disponibbli fil-kompartimenti li jikkorrispondu għall-Partijiet Kontraenti msemmija fl-ewwel subparagrafu, sal-ammont li kull kompartiment nazzjonali jkollu jikkontribwixxi skont il-kriterji tad-distribuzzjoni tal-ispejjeż stabbiliti fl-ewwel u fit-tieni subparagrafi, skont dan li ġej:

- matul l-ewwel sena tal-perijodu tranżitorju, jista' jsir użu mill-mezzi kollha disponibbli fil-kompartimenti msemmija;

- matul it-tieni u t-tielet sena tal-perijodu tranżitorju, jista' jsir użu mill-mezzi għal 60% u 40% rispettivament tal-mezzi finanzjarji disponibbli fil-kompartimenti msemmija;

- matul is-snin sussegwenti tal-perijodu tranżitorju, id-disponibbiltà tal-mezzi finanzjarji fil-kompartimenti li jikkorrispondu għal dawn il-Partijiet Kontraenti rilevanti għandha tonqos kull sena b'6⅔ punti perċentwali.

It-tnaqqis imsemmi kull sena tad-disponibbiltà tal-mezzi finanzjarji fil-kompartimenti li jikkorrispondu għall-Partijiet Kontraenti rilevanti għandu jitqassam b'mod ugwali kull tliet xhur.

(b) It-tieni nett, jekk il-mezzi finanzjarji disponibbli fil-kompartimenti tal-Partijiet Kontraenti kkonċernati msemmijin fil-punt (a) ma jkunux suffiċjenti biex jikkonformaw mal-missjoni tal-Fond kif imsemmija fl-Artikolu 76 tar-Regolament MUR, jista' jsir użu mill-mezzi finanzjarji disponibbli fil-kompartimenti tal-Fond li jikkorrispondu għall-Partijiet Kontraenti kollha.

Il-mezzi finanzjarji disponibbli fil-kompartimenti tal-Partijiet

Kontraenti kollha għandhom jiġu ssupplimentati, sal-grad speċifikat fit-tielet subparagrafu ta' dan il-punt, mill-mezzi finanzjarji li jifdal fil-kompartimenti nazzjonali li jikkorrispondu għall-Partijiet Kontraenti kkonċernati mir-riżoluzzjoni msemmija fil-punt (a).

F'każ ta' riżoluzzjoni ta' grupp transkonfinali, l-allokazzjoni tal-mezzi finanzjarji magħmula disponibbli bejn il-kompartimenti tal-Partijiet Kontraenti kkonċernati skont l-ewwel u t-tieni subparagrafi ta' dan il-punt għandha ssegwi l-istess sistema ta' distribuzzjoni tal-ispejjeż bejniethom, kif stipulat fil-punt (a). Jekk l-istituzzjoni jew l-istituzzjonijiet awtorizzati f'waħda mill-Partijiet Kontraenti kkonċernati soġġetta għal riżoluzzjoni ta' grupp ma teħtiġx it-totalità tal-mezzi finanzjarji disponibbli skont dan il-punt (b), il-mezzi finanzjarji disponibbli mhux meħtieġa taħt dan il-punt (b) għandhom jintużaw fir-riżoluzzjoni tal-entitajiet awtorizzati fil-Partijiet Kontraenti l-oħra kkonċernati mir-riżoluzzjoni ta' grupp.

Matul il-perijodu tranżitorju, l-użu għall-kompartimenti nazzjonali kollha tal-Partijiet Kontraenti għandu jsir kif ġej:

- matul l-ewwel u t-tieni sena tal-perijodu tranżitorju, jista' jsir użu mill-mezzi għal 40% u 60% rispettivament tal-mezzi finanzjarji disponibbli fil-kompartimenti msemmija;

- matul is-snin sussegwenti tal-perijodu tranżitorju, id-disponibbiltà tal-mezzi finanzjarji fil-kompartimenti msemmija għandha tiżdied kull sena b'6 ⅔ punti perċentwali.

Iż-żieda msemmija għal kull sena tad-disponibbiltà tal-mezzi finanzjarji fil-kompartimenti nazzjonali kollha tal-Partijiet Kontraenti għandha titqassam b'mod ugwali kull tliet xhur.

(c) It-tielet nett, jekk il-mezzi finanzjarji li jintużaw f'konformità ma' punt (b) ma jkunux suffiċjenti biex jikkonformaw mal-missjoni tal-Fond kif imsemmija fl-Artikolu 76 tar-Regolament MUR, għandu jsir użu mill-mezzi għal kwalunkwe mezz finanzjarju li jkun fadal fil-kompartimenti li jikkorrispondu għall-Partijiet Kontraenti kkonċernati msemmija f'punt (a).

F'każ ta' riżoluzzjoni ta' grupp transkonfinali, għandu jsir użu mill-kompartimenti tal-Partijiet Kontraenti kkonċernati li ma jkunux ipprovdew biżżejjed mezzi finanzjarji skont il-punti (a) u (b), fir-rigward tar-riżoluzzjoni ta' entitajiet awtorizzati fit-territorji tagħhom. Il-kontribuzzjonijiet minn kull kompartiment għandhom jiġu ddeterminati skont il-kriterji għad-distribuzzjoni tal-ispejjeż stabbiliti f'punt (a).

(d) Ir-raba' nett, u mingħajr preġudizzju għas-setgħat tal-Bord imsemmi taħt punt (e), jekk il-mezzi finanzjarji msemmijin f'punt (c) ma jkunux suffiċjenti biex ikopru l-ispejjeż ta' azzjoni ta' riżoluzzjoni

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partikolari, il-Partijiet Kontraenti kkonċernati msemmijin fil-punt (a) għandhom jittrasferixxu fil-Fond il-kontribuzzjonijiet *ex post* straordinarji mill-istituzzjonijiet awtorizzati fit-territorji rispettivi tagħhom, miġburin f'konformità mal-kriterji stabbiliti fl-Artikolu 71 tar-Regolament MUR.

Fil-każ ta' riżoluzzjoni ta' grupp transkonfinali, il-kontribuzzjonijiet *ex post* għandhom jiġu trasferiti mill-Partijiet Kontraenti kkonċernati li ma jkunux ipprovdew mezzi finanzjarji biżżejjed taħt il-punti (a) sa (c) fir-rigward tar-riżoluzzjoni ta' entitajiet awtorizzati fit-territorji tagħhom.

(e) Jekk il-mezzi finanzjarji msemmija fil-punt (c) ma jkunux biżżejjed biex ikopru l-ispejjeż ta' azzjoni ta' riżoluzzjoni partikolari, u sakemm il-kontribuzzjonijiet straordinarji *ex post* imsemmija fil-punt (d) ma jkunux immedjatament aċċessibbli, inkluż minħabba raġunijiet relatati mal-istabbiltà tal-istituzzjonijiet ikkonċernati, il-Bord jista' jeżerċita s-setgħa tiegħu li jikseb għall-Fond self jew forom oħra ta' appoġġ f'konformità mal-Artikoli 73 u 74 tar-Regolament MUR, jew is-setgħa tiegħu li jagħmel trasferimenti temporanji bejn il-kompartimenti f'konformità mal-Artikolu 7 ta' dan il-Ftehim.

Fil-każ li l-Bord jiddeċiedi li jeżerċita s-setgħat imsemmija fl-ewwel subparagrafu ta' dan il-punt, il-Partijiet Kontraenti kkonċernati msemmija fil-punt (d) għandhom jittrasferixxu lill-Fond il-kontribuzzjonijiet straordinarji *ex post* sabiex jirrimborżaw is-self jew forom oħra ta' appoġġ, jew it-trasferiment temporanju bejn il-kompartimenti.

2. Redditi fuq l-investimenti tal-ammonti trasferiti fil-Fond, f'konformità mal-Artikolu 75 tar-Regolament MUR għandhom jiġu allokati lil kull wieħed mill-kompartimenti *pro rata* abbażi tal-mezzi finanzjarji disponibbli rispettivi tagħhom, bl-esklużjoni ta' kwalunkwe talba jew impenn ta' pagament irrevokabbli għall-finijiet tal-Artikolu 76 tar-Regolament MUR attribwibbli għal kull kompartiment. Redditi fuq l-investiment tal-operazzjonijiet ta' riżoluzzjoni li l-Fond jista' jwettaq, f'konformità mal-Artikolu 76 tar-Regolament MUR, għandhom jiġu allokati lil kull wieħed mill-kompartimenti *pro rata* abbażi tal-kontribuzzjoni rispettiva tagħhom għal azzjoni ta' riżoluzzjoni partikolari.

3. Il-kompartimenti kollha għandhom jingħaqdu u ma għandhomx jibqgħu jeżistu wara li jiskadi l-perijodu tranżitorju.

ARTIKOLU 6

Trasferiment ta' kontribuzzjonijiet *ex ante* addizzjonali u l-livell immirat

1. Il-Partijiet Kontraenti għandhom jiżguraw li, fejn ikun adatt, jirrikostitwixxu l-Fond permezz ta' kontribuzzjonijiet *ex ante*, li jitħallsu matul il-perijodi stipulati fl-Artikolu 69(2), (3) u 5(a) tar-Regolament MUR f'ammont ekwivalenti għal dak meħtieġ biex jintlaħaq il-livell immirat speċifikat fl-Artikolu

69(1) tar-Regolament MUR.

2. Matul il-perijodu tranżitorju, it-trasferiment tal-kontribuzzjonijiet marbuta mar-rikostituzzjoni għandu jitqassam bejn il-kompartimenti bil-manjiera li ġejja:

(a) il-Partijiet Kontraenti kkonċernati mir-riżoluzzjoni għandhom jittrasferixxu l-kontribuzzjonijiet fil-parti tal-kompartiment tagħhom li ma tkunx għadha ġiet soġġetta għall-mutwalizzazzjoni skont il-punti (a) u (b) tal-Artikolu 5(1).

(b) il-Partijiet Kontraenti kollha għandhom jittrasferixxu l-kontribuzzjonijiet fil-parti tal-kompartimenti rispettivi tagħhom soġġetta għall-mutwalizzazzjoni skont il-punti (a) u (b) tal-Artikolu 5(1).

ARTIKOLU 7

Trasferiment temporanju bejn kompartimenti

1. Mingħajr preġudizzju għall-obbligi stabbiliti taħt il-punti (a) sa (d) tal-Artikolu 5(1), il-Partijiet Kontraenti kkonċernati minn riżoluzzjoni jistgħu, matul il-perijodu tranżitorju, jitolbu lill-Bord biex jużaw temporanjament il-parti tal-mezzi finanzjarji disponibbli fil-kompartimenti tal-Fond, li jikkorrispondu għall-Partijiet Kontraenti l-oħrajn, li tkun għadha ma ġietx mutwalizzata. F'dan il-każ, il-Partijiet Kontraenti kkonċernati għandhom sussegwentement jittrasferixxu fil-Fond, qabel ma jiskadi l-perijodu tranżitorju, kontribuzzjonijiet *ex post* straordinarji f'ammont ekwivalenti għal dak li jkunu rċevew il-kompartimenti tagħhom, b'żieda mal-imgħax li jinġema', sabiex il-kompartimenti l-oħra jiġu ffinanzjati mill-ġdid.

2. L-ammont trasferit temporanjament minn kull wieħed mill-kompartimenti għal dawk riċevituri għandu jkun *pro rata* għad-daqs tagħhom, kif determinat taħt l-Artikolu 4(2), u ma għandux ikun iżjed minn 50% tal-mezzi finanzjarji disponibbli f'kull kompartiment li jkun għadu mhux soġġett għal mutwalizzazzjoni. F'każ ta' riżoluzzjoni ta' grupp transkonfinali, l-allokazzjoni tal-mezzi finanzjarji magħmula disponibbli bejn il-kompartimenti tal-Partijiet Kontraenti kkonċernati skont dan il-paragrafu għandha ssegwi l-istess sistema ta' distribuzzjoni tal-ispejjeż bejniethom, kif stabbilit fil-punt (a) tal-Artikolu 5(1).

3. Id-deċiżjonijiet tal-Bord rigward it-talba għat-trasferiment temporanju ta' mezzi finanzjarji bejn il-kompartimenti msemmi fil-paragrafu 1 għandhom jittieħdu permezz ta' maġġoranza sempliċi tal-membri fis-sessjoni plenarja tiegħu, kif speċifikat fl-Artikolu 52(1) tar-Regolament MUR. Fid-deċiżjoni tiegħu dwar it-trasferiment temporanju, il-Bord għandu jispeċifika r-rata tal-imgħax, il-perijodu għar-rifużjoni u termini u kondizzjonijiet oħrajn li jikkonċernaw it-trasferiment ta' mezzi finanzjarji bejn il-kompartimenti.

4. Id-deċiżjoni tal-Bord imsemmija fil-paragrafu 3 li taqbel mat-trasferiment temporanju ta’ mezzi finanzjarji tista' tidħol fis-seħħ biss jekk fi żmien 4 ġranet kalendarji wara d-data tal-adozzjoni tad-deċiżjoni ebda waħda mill-Partijiet Kontraenti li t-trasferiment ikun sar mill-kompartimenti tagħhom ma tkun esprimiet oġġezzjoni.

Matul il-perijodu tranżitorju, id-dritt ta’ oġġezzjoni ta’ Parti Kontraenti tista’ tiġi eżerċitata biss jekk:

(a) tista’ tkun teħtieġ il-mezzi finanzjarji mill-kompartiment nazzjonali li jikkorrispondi għaliha biex tiffinanzja operazzjoni ta’ riżoluzzjoni fi ftit ta’ żmien jew jekk it-trasferiment temporanju jxekkel it-twettiq ta’ azzjoni ta’ riżoluzzjoni li tkun għaddejja fit-territorju tagħha;

(b) it-trasferiment temporanju jkun jieħu aktar mill-25% tal-parti tiegħu tal-kompartiment nazzjonali li jkun għadu mhux soġġett għal mutwalizzazzjoni f’konformità mal-punti (a) u (b) tal-Artikolu 5(1); jew

(c) tqis li l-Parti Kontraenti li l-kompartiment tagħha jgawdi mit-trasferiment temporanju ma tkunx qed tipprovdi garanziji ta’ rifużjoni minn sorsi nazzjonali jew mill-MES skont il-proċeduri maqbula.

Il-Parti Kontraenti li jkun biħsiebha toġġezzjona għandha tissostanzja b’mod debitu l-okkorrenza ta’ kwalunkwe waħda miċ-ċirkostanzi msemmija fil-punti (a) sa (c).

F’każ li jitqajmu oġġezzjonijiet f’konformità ma’ dan il-paragrafu, id-deċiżjoni tal-Bord dwar it-trasferiment temporanju għandha tiġi adottata bl-esklużjoni tal-mezzi finanzjarji tal-kompartimenti tal-Partijiet Kontraenti li joġġezzjonaw.

5. Jekk istituzzjoni ta’ Parti Kontraenti li mill-kompartiment tagħha ġew ittrasferiti mezzi finanzjarji bis-saħħa ta’ dan l-Artikolu tkun soġġetta għal riżoluzzjoni, dik il-Parti Kontraenti tista’ titlob lill-Bord jittrasferixxi mill-Fond għall-kompartiment tagħha l-ammont ekwivalenti għal dak ittrasferit inizjalment minn dak il-kompartiment. Meta ssir dik it-talba, il-Bord għandu minnufih jaċċetta li jsir it-trasferiment.

F'dak il-każ, il-Partijiet Kontraenti li bbenefikaw inizjalment mill-użu temporanju ta’ mezzi finanzjarji għandhom jinżammu responsabbli sabiex jittrasferixxu fil-Fond l-ammonti allokati lill-Parti Kontraenti kkonċernata abbażi tal-ewwel subparagrafu, skont it-termini u l-kondizzjonijiet li jiġu speċifikati mill-Bord.

6 Il-Bord għandu jispeċifika kriterji ġenerali li jiddeterminaw il-kondizzjonijiet li bihom għandu jseħħ it-trasferiment temporanju tal-mezzi finanzjarji previst f’dan l-Artikolu.

ARTIKOLU 8

Partijiet Kontraenti li l-munita tagħhom mhix l-euro

1. F'każ li wara d-data tal-applikazzjoni ta' dan il-Ftehim skont l-Artikolu 12(2) tiġi adottata deċiżjoni mill-Kunsill tal-Unjoni Ewropea li tħassar id-deroga ta' Parti Kontraenti li l-munita tagħha mhix l-euro, kif iddefinit fl-Artikolu 139(1) TFUE jew l-eżenzjoni għalih, kif imsemmija fil-Protokoll (Nru 16) dwar ċerti dispożizzjonijiet marbuta mad-Danimarka annessi mat-TUE u t-TFUE ('Protokoll dwar ċerti dispożizzjonijiet relatati mad-Danimarka') jew jekk, fin-nuqqas ta' kwalunkwe deċiżjoni bħal din, Parti Kontraenti li l-munita tagħha mhix l-euro ssir parti mill-Mekkaniżmu Superviżorju Uniku u tal-Mekkaniżmu Uniku ta' Riżoluzzjoni, hija għandha tittrasferixxi lejn il-Fond ammont ta' kontribuzzjonijiet miġbur fit-territorju tagħha ekwivalenti għall-parti tat-total tal-livell immirat għall-kompartiment nazzjonali tagħha kkalkulat skont l-Artikolu 4(2), u b'hekk ugwali għall-ammont li kien jiġi ttrasferit mill-Parti Kontraenti kkonċernata kieku pparteċipat fil-Mekkaniżmu Superviżorju Uniku u l-Mekkaniżmu Uniku ta' Riżoluzzjoni sa mid-data tal-applikazzjoni ta' dan il-Ftehim taħt l-Artikolu 12(2).

2. Kwalunkwe ammont rifuż bl-arranġament finanzjarju ta' riżoluzzjoni ta' Parti Kontraenti msemmija fil-paragrafu 1 fir-rigward tal-azzjonijiet ta' riżoluzzjoni fit-territorju tagħhom għandu jitnaqqas minn dak li għandu jiġi ttrasferit minn dik il-Parti Kontraenti lejn il-Fond bis-saħħa tal-paragrafu 1. F'dak il-każ, il-Parti Kontraenti kkonċernata għandha tibqa' obbligata li tittrasferixxi lejn il-Fond ammont ekwivalenti għal dak li kien ikun meħtieġ biex jintlaħaq il-livell immirat tal-arranġament ta' finanzjament ta' riżoluzzjoni, skont l-Artikolu 102 tad-Direttiva BRR u qabel l-iskadenzi pprovduti hemmhekk.

3. Il-Bord għandu jiddetermina, bi qbil mal-Parti Kontraenti kkonċernata, l-ammont preċiż tal-kontribuzzjonijiet li għandhom jiġu ttrasferiti minnha, skont il-kriterji mogħtija fil-paragrafi 1 u 2.

4. L-ispejjeż ta' kwalunkwe azzjoni ta' riżoluzzjoni mibdija fit-territorju tal-Partijiet Kontraenti li l-munita tagħhom mhix l-euro qabel id-data meta d-deċiżjoni li tabroga d-deroga tagħhom, kif definit fl-Artikolu 139(1) TFUE, jew l-eżenzjoni tagħhom, kif imsemmi fil-Protokoll dwar ċerti dispożizzjonijiet relatati mad-Danimarka, tieħu effett jew qabel id-data tad-dħul fis-seħħ tad-deċiżjoni tal-BĊE dwar kooperazzjoni mill-qrib imsemmija fl-Artikolu 7(2) tar-Regolament (UE) Nru1024/2013 ma għandhomx jiġġarrbu mill-Fond.

Jekk il-BĊE, fil-valutazzjoni komprensiva tiegħu tal-istituzzjonijiet ta' kreditu msemmija fil-punt (b) tal-Artikolu 7(2) tar-Regolament (UE) Nru 1024/2013, iqis li xi istituzzjoni tal-Partijiet Kontraenti kkonċernati qed tfalli jew aktarx tfalli, l-ispejjeż ta' riżoluzzjoni tal-azzjonijiet ta' riżoluzzjoni ta' dawk l-istituzzjonijiet ta' kreditu ma għandhomx jiġġarrbu mill-Fond.

5. Fil-każ ta' terminazzjoni tal-kooperazzjoni mill-qrib mal-BĊE, il-

kontribuzzjonijiet trasferiti mill-Parti Kontraenti konċernata mit-terminazzjoni jiġu rkuprati f'konformità mal-Artikolu 4(3) tar-Regolament MUR.

It-tmiem tal-kooperazzjoni mill-qrib mal-BĊE ma għandhiex taffettwa d-drittijiet u l-obbligi tal-Partijiet Kontraenti li joriġinaw minn azzjonijiet ta' riżoluzzjoni li jkunu twettqu matul il-perijodu li fih dawk il-Partijiet Kontraenti jkunu soġġetti għal dan il-Ftehim u li huma relatati ma':

- it-trasferiment ta' kontribuzzjonijiet *ex post*, taħt il-punt (d) tal-Artikolu 5(1);

- ir-rikostituzzjoni tal-Fond, taħt l-Artikolu 6; u

- it-trasferiment temporanju bejn kompartimenti, taħt l-Artikolu 7.

ARTIKOLU 9

Rispett tal-prinċipji u l-objettivi ġenerali tar-riżoluzzjoni

1. L-użu tal-Fond fuq bażi reċiproka u t-trasferiment ta' kontribuzzjonijiet lill-Fond għandhom ikunu kontinġenti fuq il-permanenza ta' qafas legali dwar riżoluzzjoni li r-regoli tiegħu huma ekwivalenti għal, u tal-anqas iwasslu għall-istess riżultat ta' dawk skont ir-Regolament MUR kif jinsabu fir-regoli li ġejjin, u mingħajr ma jinbidlu:

(a) Ir-regoli proċedurali dwar l-adozzjoni ta' skema ta' riżoluzzjoni kif stipulati taħt l-Artikolu 18 tar-Regolament MUR;

(b) Ir-regoli dwar it-teħid ta' deċiżjonijiet tal-Bord kif stipulati fl-Artikoli 52 u 55 tar-Regolament MUR;

(c) Il-prinċipju ġenerali li jikkonċernaw ir-riżoluzzjoni kif stipulati fl-Artikolu 15 tar-Regolament MUR, partikolarment il-prinċipji li l-azzjonisti tal-istituzzjoni taħt riżoluzzjoni jġarrbu l-ewwel telf u li l-kredituri tal-istituzzjoni taħt riżoluzzjoni jġarrbu t-telf wara l-azzjonisti skont l-ordni ta' prijorità tal-pretensjonijiet tagħhom, miġbura fil-punti (a) u (b) tal-paragrafu (1) tiegħu;

(d) Ir-regoli dwar l-għodod ta' riżoluzzjoni msemmija taħt l-Artikolu 22(2) tar-Regolament MUR, b'mod partikolari dawk dwar l-applikazzjoni tal-għodda ta' rikapitalizzazzjoni interna stipulati taħt l-Artikolu 27 tiegħu u fl-Artikoli 43 u 44 tad-Direttiva BRR u l-limiti speċifiċi li jistabbilixxu fir-rigward tal-impożizzjoni ta' telf fuq l-azzjonisti u fuq il-kredituri u l-kontribuzzjoni tal-Fond għal azzjoni partikolari ta' riżoluzzjoni.

2. Fil-każ li r-regoli dwar riżoluzzjoni msemmija fil-paragrafu 1, previsti fir-Regolament MUR kif ikun fid-data tal-adozzjoni inizjali tiegħu, jiġu revokati,

jew inkella emendati kontra r-rieda ta' kwalunkwe Parti Kontraenti, inkluża l-adozzjoni ta' regoli ta' rikapitalizzazzjoni interna b'mod li mhux ekwivalenti jew li ma jwassalx għal tal-anqas l-istess riżultat mhux anqas rigoruż li joħroġ mir-Regolament MUR kif ikun fid-data tal-adozzjoni inizjali tiegħu, u din il-Parti Kontraenti teżerċita d-drittijiet tagħha skont id-dritt pubbliku internazzjonali rigward bidla fiċ-ċirkostanzi, kwalunkwe Parti Kontraenti oħra tista', abbażi tal-Artikolu 14 ta' dan il-Ftehim, titlob lill-Qorti tal-Ġustizzja Ewropea sabiex tivverifika l-eżistenza ta' bidla fundamentali taċ-ċirkostanzi u l-konsegwenzi li jirriżultaw minnha, f'konformità mad-dritt pubbliku internazzjonali. Fl-applikazzjoni tagħha, kwalunkwe Parti Kontraenti tista' titlob lill-Qorti tal-Ġustizzja sabiex tissospendi t-tħaddim ta' miżura li hija s-suġġett ta' tilwima, f'liema każ japplikaw l-Artikolu 278 TFUE u l-Artikoli 160 sa 162 tar-Regoli ta' Proċedura tal-Qorti tal-Ġustizzja.

3. Il-proċedura msemmija fil-paragrafu 2 ta' dan l-Artikolu ma għandhiex tippreġudika jew taffettwa r-rikors għal rimedji legali previsti taħt l-Artikoli 258, 259, 260, 263, 265 u 266 TFUE.

ARTIKOLU 10

Konformità

1. Il-Partijiet Kontraenti għandhom jieħdu l-miżuri neċessarji fl-ordnijiet ġuridiċi nazzjonali tagħhom biex jiżguraw konformità mal-obbligu tagħhom li jittrasferixxu l-kontribuzzjonijiet b'mod konġunt f'konformità ma' dan il-Ftehim.

2. Mingħajr preġudizzju għas-setgħa tal-Qorti tal-Ġustizzja taħt l-Artikolu 14 ta' dan il-Ftehim, il-Bord, waqt li jaġixxi fuq l-inizjattiva tiegħu stess jew fuq it-talba ta' kwalunkwe Parti Kontraenti, jista' jikkunsidra jekk Parti Kontraenti tkunx naqset milli tikkonforma mal-obbligu tagħha li tittrasferixxi l-kontribuzzjonijiet fil-Fond, kif stabbilit f'dan il-Ftehim.

F'każ li l-Bord jsib li Parti Kontraenti tkun naqset milli tikkonforma mal-obbligu tagħha li tittrasferixxi l-kontribuzzjonijiet, hija għandha tistabbilixxi limitu ta' żmien biex il-Parti Kontraenti kkonċernata tieħu l-miżuri neċessarji sabiex twaqqaf il-ksur. F'każ li l-Parti Kontraenti kkonċernata ma tiħux il-miżuri neċessarji biex twaqqaf il-ksur fil-limitu ta' żmien stabbilit mill-Bord, l-użu tal-kompartimenti tal-Partijiet Kontraenti kollha kif stipulat fil-punt (b) tal-Artikolu 5(1) għandu jiġi eskluż fir-rigward tar-riżoluzzjoni ta' istituzzjonijiet awtorizzati fil-Parti Kontraenti kkonċernata. Dik l-esklużjoni għandha tieqaf tapplika mill-mument li l-Bord jiddetermina li l-Parti Kontraenti kkonċernata tkun ħadet il-miżuri neċessarji biex twaqqaf il-ksur.

3. Id-deċiżjonijiet tal-Bord taħt dan l-Artikolu għandhom jittieħdu b'maġġoranza sempliċi mill-President u l-membri msemmijin fil-punt (b) tal-Artikolu 43(1) tar-Regolament MUR.

TITOLU IV

DISPOŻIZZJONIJIET ĠENERALI U FINALI

ARTIKOLU 11

Ratifika, approvazzjoni jew aċċettazzjoni u dħul fis-seħħ

1. Dan il-Ftehim għandu jkun soġġett għar-ratifika, l-approvazzjoni jew l-aċċettazzjoni mill-firmatarji tiegħu skont ir-rekwiżiti kostituzzjonali rispettivi tagħhom. L-istrumenti ta' ratifika, approvazzjoni jew aċċettazzjoni għandhom jiġu depożitati mas-Segretarjat Ġenerali tal-Kunsill tal-Unjoni Ewropea ("id-Depożitarju"). Id-Depożitarju għandu jinnotifika lill-firmatarji l-oħrajn b'kull depożitu u d-data tiegħu.

2. Dan il-Ftehim għandu jidħol fis-seħħ fl-ewwel jum tat-tieni xahar wara d-data meta l-istrumenti ta' ratifika, approvazzjoni jew aċċettazzjoni jkunu ġew depożitati mill-firmatarji parteċipanti fil-Mekkaniżmu Superviżorju Uniku u fil-Mekkaniżmu Uniku ta' Riżoluzzjoni li jirrappreżentaw mhux inqas minn 90% tal-aggregat tal-voti ppeżati tal-Istati Membri kollha parteċipanti fil-Mekkaniżmu Superviżorju Uniku u fil-Mekkaniżmu Uniku ta' Riżoluzzjoni, kif determinat mill-Protokoll (Nru 36) dwar id-dispożizzjonijiet tranżitorji anness mat-TUE u t-TFUE.

ARTIKOLU 12

Applikazzjoni

1. Dan il-Ftehim għandu japplika fost il-Partijiet Kontraenti li jkunu ddepożitaw l-istrumenti tagħhom ta' ratifika, approvazzjoni jew aċċettazzjoni dment li r-Regolament MUR ikun daħal fis-seħħ.

2. Soġġett għall-paragrafu 1 ta' dan l-Artikolu, u bil-kondizzjoni li dan il-Ftehim ikun daħal fis-seħħ skont l-Artikolu 11(2), huwa għandu japplika mill-1 ta' Jannar 2016 fost il-Partijiet Kontraenti parteċipanti fil-Mekkaniżmu Superviżorju Uniku u fil-Mekkaniżmu Uniku ta' Riżoluzzjoni li jkunu ddepożitaw l-istrumenti tagħhom ta' ratifika, approvazzjoni jew aċċettazzjoni sa dik id-data. Jekk dan il-Ftehim ma jkunx daħal fis-seħħ sal-1 ta' Jannar 2016, huwa għandu jibda japplika mid-data tad-dħul fis-seħħ tiegħu, fost il-Partijiet Kontraenti parteċipanti fil-Mekkaniżmu Superviżorju Uniku u fil-Mekkaniżmu Uniku ta' Riżoluzzjoni li jkunu ddepożitaw l-istrumenti tagħhom ta' ratifika, approvazzjoni jew aċċettazzjoni sa dik id-data.

3. Dan il-Ftehim għandu japplika għall-Partijiet Kontraenti parteċipanti fil-Mekkaniżmu Superviżorju Uniku u fil-Mekkaniżmu Uniku ta' Riżoluzzjoni li ma jkunux ddepożitaw l-istrumenti tagħhom ta' ratifika, approvazzjoni jew aċċettazzjoni sad-data tal-applikazzjoni taħt il-paragrafu 2, mill-ewwel jum tax-xahar wara d-depożitu tal-istrument ta' ratifika, approvazzjoni jew aċċettazzjoni rispettiv tagħhom.

4. Dan il-Ftehim ma għandux japplika għall-Partijiet Kontraenti li jkunu ddepożitaw l-istrumenti tagħhom ta' ratifika, approvazzjoni jew aċċettazzjoni iżda li ma jippartecipawx fil-Mekkaniżmu Superviżorju Uniku u fil-Mekkaniżmu Uniku ta' Riżoluzzjoni sad-data tal-applikazzjoni ta' dan il-Ftehim. Madankollu, dawk il-Partijiet Kontraenti għandhom ikunu parti mill-ftehim speċjali msemmi fl-Artikolu 14(2) sa mid-data tal-applikazzjoni ta' dan il-Ftehim għall-finijiet tal-preżentazzjoni lill-Qorti tal-Ġustizzja ta' kwalunkwe tilwima dwar l-interpretazzjoni u l-infurzar tal-Artikolu 15.

Huwa għandu japplika għall-Partijiet Kontraenti msemmija fl-ewwel subparagrafu mid-data li fiha ssir effettiva d-deċiżjoni li tabroga d-deroga tagħhom, kif definit fl-Artikolu 139(1) TFUE jew l-eżenzjoni tagħhom, kif imsemmi fil-Protokoll dwar ċerti dispożizzjonijiet li għandhom x'jaqsmu mad-Danimarka, jew fin-nuqqas ta' dan, mid-data tad-dħul fis-seħħ tad-deċiżjoni tal-BĊE dwar kooperazzjoni mill-qrib imsemmija fl-Artikolu 7(2) tar-Regolament (UE) Nru 1024/2013.

Soġġett għall-Artikolu 8 tiegħu, dan il-Ftehim għandu jieqaf japplika għall-Partijiet Kontraenti li jkunu stabbilixxew il-kooperazzjoni mill-qrib mal-BĊE imsemmija fl-Artikolu 7(2) tar-Regolament (UE) Nru 1024/2013 mid-data tat-tmiem ta' dik il-kooperazzjoni mill-qrib f'konformità mal-Artikolu 7(8) ta' dak ir-Regolament.

ARTIKOLU 13

Adeżjoni

Dan il-Ftehim għandu jkun miftuħ għall-adeżjoni minn Stati Membri li mhumiex il-Partijiet Kontraenti. Soġġett għall-paragrafi 1 sa 3 tal-Artikolu 8 l-adeżjoni għandha tkun effettiva hekk kif jiġi depożitat l-istrument ta' adeżjoni mad-Depożitarju, li għandu jinnotifika lill-Partijiet Kontraenti l-oħra dwar dan. Wara l-awtentikazzjoni mill-Partijiet Kontraenti, it-test ta' dan il-Ftehim bil-lingwa uffiċjali tal-Istat Membru aderenti li hija wkoll lingwa uffiċjali tal-istituzzjonijiet tal-Unjoni, għandu jiġi depożitat fl-arkivji tad-Depożitarju bħala test awtentiku ta' dan il-Ftehim.

ARTIKOLU 14

Riżoluzzjoni ta' tilwim

1. Meta Parti Kontraenti ma taqbilx ma' Parti Kontraenti oħra dwar l-interpretazzjoni ta' kwalunkwe waħda mid-dispożizzjonijiet ta' dan il-Ftehim jew meta hija tqis li Parti Kontraenti oħra tkun naqset milli tikkonforma mal-obbligi tagħha taħt dan il-Ftehim, din tista' tressaq il-kwistjoni quddiem il-Qorti tal-Ġustizzja. Is-sentenza tal-Qorti tal-Ġustizzja għandha tkun vinkolanti fuq il-partijiet fil-proċedimenti.

Jekk il-Qorti tal-Ġustizzja ssib li Parti Kontraenti tkun naqset milli tikkonforma mal-obbligi tagħha taħt dan il-Ftehim, il-Parti Kontraenti kkonċernata għandha tieħu l-miżuri neċessarji biex tikkonforma mas-sentenza f'perijodu li għandu jiġi deċiż mill-Qorti tal-Ġustizzja. F'każ li l-Parti Kontraenti kkonċernata ma tiħux il-miżuri neċessarji biex twaqqaf il-ksur fil-limitu ta' żmien stabbilit mill-Qorti tal-Ġustizzja, l-użu tal-kompartimenti tal-Partijiet Kontraenti kollha kif stipulat fil-punt (b) tal-Artikolu 5(1) għandu jiġi eskluż fir-rigward tal-istituzzjonijiet awtorizzati fil-Parti Kontraenti kkonċernata.

2. Dan l-Artikolu jikkostitwixxi ftehim speċjali bejn il-Partijiet Kontraenti fit-tifsira tal-Artikolu 273 TFUE.

3. L-Istati Membri li l-munita tagħhom mhix l-euro li ma rratifikawx dan il-Ftehim jistgħu jinnotifikaw lid-Depożitarju bl-intenzjoni tagħhom li jkunu parti mill-ftehim speċjali msemmi fil-paragrafu 2 ta' dan l-Artikolu għall-finijiet li jippreżentaw lill-Qorti tal-Ġustizzja kwalunkwe tilwima dwar l-interpretazzjoni u l-infurzar tal-Artikolu 15. Id-Depożitarju għandu jikkomunika n-notifika mill-Istat Membru kkonċernat lill-Partijiet Kontraenti, u meta jsir hekk l-Istat Membru kkonċernat għandu jsir parti mill-ftehim speċjali msemmi fil-paragrafu 2 ta' dan l-Artikolu għall-finijiet deskritti f'dan il-paragrafu.

ARTIKOLU 15

Kumpens

1. Il-Partijiet Kontraenti jintrabtu li jirrimborżaw b'mod konġunt, fil-pront u bl-imgħax lil kull Stat Membru li ma jipparteċipax fil-Mekkaniżmu Superviżorju Uniku u fil-Mekkaniżmu Uniku ta' Riżoluzzjoni ("Stat Membru mhux parteċipanti") għall-ammont li dak l-Istat Membru mhux parteċipanti jkun ħallas f'riżorsi proprji li jikkorrispondi għall-użu tal-baġit ġenerali tal-Unjoni f'każijiet ta' responsabbiltà mhux kuntrattwali u spejjeż relatati magħha, fir-rigward tal-eżerċizzju tas-setgħat mill-istituzzjonijiet tal-Unjoni taħt ir-Regolament MUR.

2. L-ammont li kull wieħed mill-Istat Membri mhux parteċipanti huwa meqjus li kkontribwixxa għar-responsabbiltà mhux kuntrattwali u spejjeż relatati magħha, għandu jiġi determinat *pro rata* abbażi tad-dħul nazzjonali gross rispettiv tagħhom determinat f'konformità mal-Artikolu 2(7) tad-Deċiżjoni tal-Kunsill 2007/436/KE, Euratom[1] tas-7 ta' Ġunju 2007 dwar is-sistema tar-riżorsi proprji tal-Komunitajiet Ewropej jew ma' kwalunkwe att sussegwenti tal-Unjoni li jemendaha jew jirrevokaha.

3. L-ispejjeż tal-kumpens għandhom jitqassmu fost il-Partijiet Kontraenti *pro rata* abbażi tad-daqs tad-dħul nazzjonali gross rispettiv tagħhom, kif determinat f'konformità mal-Artikolu 2(7) tad-Deċiżjoni tal-Kunsill 2007/436/KE,

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1 Deċiżjoni tal-Kunsill tas-7 ta' Ġunju 2007 dwar is-sistema tar-riżorsi proprji tal-Komunitajiet Ewropej (ĠU L 163, 23.6.2007, p. 17).

Euratom jew ma' kwalunkwe att sussegwenti tal-Unjoni li jemendaha jew jirrevokaha.

4. L-Istati Membri mhux parteċipanti għandhom jiġu rifużi fid-dati tal-entrati fil-kontijiet imsemmija fl-Artikolu 9(1) tar-Regolament tal-Kunsill (KE, Euratom) Nru 1150/2000[1] jew fi kwalunkwe att tal-Unjoni segwenti li jemendah jew iħassru, bl-ammonti li jikkorrispondu għall-ħlasijiet mill-baġit tal-Unjoni biex jitħallsu l-ispejjeż u r-responsabbiltà mhux kuntrattwali relatati għalihom wara l-adozzjoni tal-baġit emendatorju assoċjat.

Kwalunkwe mgħax għandu jiġi kkalkulat f'konformità mad-dispożizzjonijiet dwar l-imgħax għal ammonti li jsiru disponibbli tard applikabbli għar-riżorsi proprji tal-Unjoni. L-ammonti għandhom jiġu kkonvertiti mill-munita nazzjonali għall-euro skont rata ta' kambju determinata f'konformità mal-ewwel subparagrafu tal-Artikolu 10(3) tar-Regolament tal-Kunsill (KE, Euratom) Nru 1150/2000 jew ma' kwalunkwe att tal-Unjoni segwenti li jemendah jew iħassru.

5. Il-Kummissjoni għandha tikkoordina kwalunkwe azzjoni ta' rifużjoni mill-Partijiet Kontraenti, f'konformità mal-kriterji stipulati taħt il-paragrafi 1 sa 3. Ir-rwol tal-Kummissjoni bħala koordinatriċi għandu jinkludi l-kalkolu tal-bażi li fuqha jsiru l-pagamenti, il-ħruġ ta' avviżi lill-Partijiet Kontraenti li jeħtieġu pagamenti u l-kalkolu tal-imgħax.

ARTIKOLU 16

Rieżami

1. F'perijodu massimu ta' sentejn mid-data tad-dħul fis-seħħ ta' dan il-Ftehim, u kull 18-il xahar minn dakinhar 'il quddiem, il-Bord għandu jwettaq valutazzjoni u jippreżenta rapport lill-Parlament Ewropew u lill-Kunsill dwar l-implimentazzjoni ta' dan il-Ftehim u b'mod partikolari dwar il-funzjonament korrett tal-użu reċiproku tal-Fond u l-impatt tiegħu fuq l-istabbiltà finanzjarja u s-suq intern.

2. Fi żmien massimu ta' għaxar snin mid-data tad-dħul fis-seħħ ta' dan il-Ftehim, abbażi ta' valutazzjoni tal-esperjenza fl-implimentazzjoni tiegħu li tinsab fir-rapporti mfassla mill-Bord f'konformità mal-paragrafu 1, għandhom jittieħdu l-passi neċessarji, f'konformità mat-TUE u t-TFUE, bil-għan li s-sustanza ta' dan il-Ftehim tiġi inkorporata fil-qafas legali tal-Unjoni.

Magħmul fi Brussell fil-21 ta' Mejju 2014, f'oriġinal uniku, li t-testi bil-Bulgaru, bil-Kroat, biċ-Ċek, bid-Daniż, bl-Olandiż, bl-Ingliż, bl-Estonjan, bil-Finlandiż, bil-Franċiż, bil-Ġermaniż, bil-Grieg, bl-Ungeriż, bl-Irlandiż, bit-Taljan, bil-Latvjan, bil-Litwan, bil-Malti, bil-Pollakk, bil-Portugiż, bir-Rumen, bis-

1 Regolament tal-Kunsill (KE, Euratom) Nru 1150/2000 tat-22 ta' Mejju 2000 li jimplimenta d-Deċiżjoni 2007/436/KE, Euratom dwar is-sistema tar-riżorsi tagħhom tal-Komunitajiet (ĠU L 130, 31.5.2000, p. 1), inkluża kwalunkwe emenda sussegwenti.

VERŻJONI ELETTRONIKA

Slovakk, bis-Sloven, bl-Ispanjol u bl-Isvediż tiegħu huma ugwalment awtentiċi, li għandu jiġi depożitat fl-arkivji tad-Depożitarju li għandu jittrasmetti kopja debitament iċċertifikata lil kull waħda mill-Partijiet Kontraenti.

DIKJARAZZJONIJIET TA’ INTENZJONI MILL-PARTIJIET KONTRAENTI U L-OSSERVATURI TAL-KONFERENZA INTERGOVERNATTIVA LI HUMA MEMBRI TAL-KUNSILL TAL-UNJONI EWROPEA LI GĦANDHA TIĠI DEPOŻITATA MAL-FTEHIM:

Dikjarazzjoni Nru 1:

Filwaqt li jirrispettaw bis-sħiħ il-proċeduri u r-rekwiżiti tat-Trattati li fuqhom hija bbażata l-Unjoni Ewropea, il-Partijiet Kontraenti u l-osservaturi tal-Konferenza intergovernattiva li huma membri tal-Kunsill tal-Unjoni Ewropea jinnotaw li huwa l-objettiv tagħhom u l-intenzjoni tagħhom li, sakemm ma jaqblux kollha mod ieħor:

(a) Artikolu 4(3) tar-Regolament MUR, kif ikun fid-data tal-adozzjoni inizjali tiegħu, ma jiġix revokat jew emendat;

(b) il-prinċipji u r-regoli relatati mal-għodda ta’ rikapitalizzazzjoni interna ma jiġux revokati jew emendati b’mod li mhuwiex ekwivalenti u ma jwassalx għal, tal-anqas, l-istess riżultat mhux anqas rigoruż li joħroġ mir-Regolament MUR kif ikun fid-data tal-adozzjoni inizjali tiegħu.

Dikjarazzjoni Nru 2:

Il-firmatarji għall-Ftehim Intergovernattiv dwar it-trasferiment u l-mutwalizzazzjoni tal-kontribuzzjonijiet għall-Fond Uniku ta’ Riżoluzzjoni jiddikjaraw li ser jaħdmu bla heda biex ilestu l-proċess ta’ ratifika tiegħu f’konformità mar-rekwiżiti legali nazzjonali rispettivi fiż-żmien debitu sabiex il-Mekkaniżmu Uniku ta’ Riżoluzzjoni jkun qed jopera għalkollox sal-1 ta’ Jannar 2016.

Għanijiet u Raġunijiet

Ir-raġunijiet u l-għanijiet ta’ dan l-Abbozz ta’ Liġi huma biex jipprovdu għall-parteċipazzjoni tal-Gvern ta’ Malta fil-ftehim dwar it-trasferiment u l-mutwalizzazzjoni ta’ kontribuzzjonijiet għall-Fond Uniku ta’ Riżoluzzjoni matul il-perjodu tranżitorju qabel id-dħul fis-seħħ tal-Mekkaniżmu Uniku ta’ Riżoluzzjoni u sabiex jipprovdu għad dħul fi ftehim finanzjarji jew oħra jew f’arranġamenti mal-parteċipanti fil-Mekkaniżmu Uniku ta’ Riżoluzzjoni.

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A BILL
entitled

AN 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 before the entry into force of the Single Resolution Mechanism Regulation and to provide for the entering into financial or other agreements or arrangements with the participants of the Single Resolution Mechanism.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

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, 2015.

(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.

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

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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 14th 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.

Authority to participate in Single Resolution Fund.

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 before the entry into force of the Single Resolution Mechanism Regulation, 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.

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

Ratification of the Agreement.

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.

Granting of contributions during the transitional period.

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

Power to make regulations.

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.

Public Accounts Committee.

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[1] ("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

1 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.

rules, which credit institutions throughout the Union must respect, through Regulation (EU) No 575/2013 of the European Parliament and of the Council[1] and Directive 2013/36/EU of the European Parliament and of the Council[2].

(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 the European Banking Authority (EBA) established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council[3] the European Insurance and Occupational Pensions Authority (EIOPA) established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council[4] and the European Securities and Markets Authority (ESMA) established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council[5]. 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[6] 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,[7] 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

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1 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).

2 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).

3 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).

4 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).

5 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).

6 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).

establishing a framework for the recovery and resolution of credit institutions and investment firms[1] ("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 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

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7 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).

1 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

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

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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 Supervision 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 Supervision 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.[1] 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

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1 Rules of Procedure of the Court of Justice of 25 September2012 (OJ L 265 of 29.9.2012, p.1), including any subsequent amendments.

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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. 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

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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

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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

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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

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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 4 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

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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.

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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

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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.

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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[1] 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 [2]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

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

2 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.

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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.

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

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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.

Objects and Reasons

The objects and reasons of the Bill are to provide for the participation of the Government of Malta into the agreement on the transfer and mutualisation of contributions to the Single Resolution Fund during the transitional period before the entry into force of the Single Resolution Mechanism Regulation and to provide for the entering into financial or other agreements or arrangements with the participants of the Single Resolution Mechanism.

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