Capital Requirements Directive: exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures

2016/0364(COD) - 16/04/2019 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 483 votes to 53, with 114 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures.

Parliament adopted its position at first reading in accordance with the ordinary legislative procedure.

The proposal to amend Directive 2013/36/EU of the European Parliament and of the Council (Capital Requirements Directive) provides for a binding leverage ratio, designed to prevent institutions from excessive leverage, and a binding net stable funding ratio.

It strengthens risk-sensitive capital requirements in particular in the area of market risk, counterparty credit risk, and for exposures to central counterparties (CCPs). In addition, it requires for Global Systemically Important Institutions (G-SIIs) to hold minimum levels of capital and other instruments which bear losses in resolution. This requirement, known as 'Total Loss-Absorbing Capacity' or TLAC), will be integrated into the existing MREL (Minimum Requirement for own funds and Eligible Liabilities) system, which is applicable to all banks.

The amendments to the Commission's proposal place particular emphasis on:

- the need to provide for a specific approval procedure and direct supervisory powers over certain financial holding companies and mixed financial holding companies in order to ensure that such holding companies can be held directly responsible for ensuring compliance with consolidated prudential requirements, without subjecting them to additional prudential requirements on an individual basis;

- the obligation for establishments to apply the principle of equal pay for men and women for the same work or work of equal value;

- the consideration of the size, structure and internal organisation of institutions and the nature, scope and complexity of their activities in the supervisory review and evaluation procedure; competent authorities may take into account the specific risks affecting each institution nor alter the institution-specific nature of the measures imposed;

- the capital add-on requirement to be imposed by the competent authorities should be determined according to the particular situation of an institution and be duly justified. These requirements should be above the applicable minimum capital requirements and below the overall capital cushion requirement or the leverage ratio cushion requirement, as the case may be, in the sequencing of the corresponding capital requirements;

- the additional own funds requirement to be imposed by competent authorities should be set in relation to the specific situation of an institution and should be duly justified. Those requirements should be positioned in the relevant stacking order of own funds requirements above the relevant minimum own funds requirements and below the combined buffer requirement or the leverage ratio buffer requirement, as relevant;

- the possibility for competent authorities to communicate to an institution, in the form of guidance any adjustment to the amount of capital in excess of the relevant minimum own funds requirements, the relevant additional own funds requirement and, as relevant, the combined buffer requirement or the leverage ratio buffer requirement that they expect such an institution to hold in order to deal with forward looking stress scenarios;

- the systematic integration by the competent authorities of money laundering and terrorist financing considerations into their relevant supervisory activities;

- the possibility for Member States to implement measures in national law to enhance the resilience of the financial system, such as, in particular, limits on the loan-to-value ratio, debt-to-income limits, debt service-to-income limits and other instruments addressing lending standards;

- the calculation by institutions of their specific buffers as equal to the weighted average of the countercyclical buffer rates applicable in the countries in which they have credit exposures. Each Member State should therefore designate an authority to set the countercyclical buffer rate for exposures located in that Member State;

- the possibility for Member States to require certain institutions to hold, in addition to a capital conservation buffer and a countercyclical capital buffer, a systemic risk buffer in order to prevent and mitigate macroprudential or systemic risks;

- the key role of the European Systemic Risk Board (ESRB) in coordinating macroprudential measures and in transmitting information on planned macroprudential measures in the Member States, in particular through the publication of adopted macroprudential measures on its website and through information sharing across authorities following the notifications of planned macroprudential measures;

- the possibility for the competent authorities or designated authorities to determine the level(s) of application of the other systemically important institutions (O-SIIs) buffer, on the basis of the nature and distribution of the risks embedded in the structure of the group;

- the development by the European Banking Authority (EBA) of draft regulatory technical standards to specify the additional identification methodology for global systemically important institutions (G-SIIs) to allow the recognition of the specificities of the integrated European resolution framework within the context of the SRM.